



# Journal of the Senate

Number 18—Regular Session

Wednesday, May 1, 1996

## CALL TO ORDER

The Senate was called to order by the President at 9:30 a.m. A quorum present—38:

Mr. President	Diaz-Balart	Jennings	Rossin
Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Hargrett	Meadows	Williams
Crist	Harris	Myers	
Dantzler	Horne	Ostalkiewicz	

Excused: Senator Holzendorf; Senator Jenne until 4 p.m.; Senators Diaz-Balart, Beard, Childers, Bronson, Dantzler, Hargrett, Harris, Casas, Harden, Dudley, Holzendorf, Horne, Kirkpatrick, Sullivan, Bankhead, Jennings, Kurth, Myers, Ostalkiewicz, Thomas, Williams, Gutman, Crist, Burt, Jones and Silver, periodically for the purpose of working on Appropriations

## PRAYER

The following prayer was offered by Dr. Len Turner, Pastor, East Hill Baptist Church, Tallahassee:

God of love, kindness and grace, you have instructed us to "Pause a while and know that I am God" (Psalm 46:10). At the beginning of this day, which is a precious gift from you, an eternal part of our lives, we pause, first, to give you thanks.

Thanks for the gift of life itself. Thanks that our lives are more than merely existing, more than eking out enough sustenance to survive one more day; that our lives have truly been blessed by you.

Thanks for the gift of this day. There is still a freshness in the air of this day, and Father, I pray for these Senators, their families and their staff, that you will so be present with them that this day's work will not cause this wonderful gift to become stale, sour or scorched.

Also, Father, we "pause for a while" to seek your involvement in this day's work. Before history records the results of this day's labors, hundreds of decisions will be made by the individuals of this most important body. Father, where there needs to be wisdom garnered for the decision-making process, give it liberally; where there needs to be courage, give the strength of a superman; where there needs to be compromise, give a spirit of generosity and gentleness; where there needs to be a fighting spirit, clothe it with kindness.

Father, I am simply asking you to be present with this legislative body today—not as a member of the gallery, but as a most trusted and dependable aide and friend. Amen

## PLEDGE

Senate Pages, Kali Blakeslee of Roseland and William Meier of Cocoa, led the Senate in the pledge of allegiance to the flag of the United States of America.

## MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Diaz-Balart, by two-thirds vote **CS for SB 96**, **CS for SB 218**, **CS for SB 236**, **CS for SB 376**, **SB 552**, **CS for SB 600**, **CS for SB 646**, **CS for SB 694**, **SB 786**, **SB 830**, **SB 880**, **CS for CS for SB 884**, **SB 982**, **SB 986**, **SB 994**, **CS for SB 1032**, **CS for SB's 1038 and 2178**, **SB 1062**, **CS for SB 1070**, **SB 1266**, **SB 1644**, **SB 1792**, **SB 1798**, **SB 1830**, **CS for SB 2232**, **SB 2262**, **SB 2338**, **SB 2390**, **SB 2470**, **CS for SB 2576**, **SB 2724**, **CS for SB 2870**, **CS for SB 2924**, **CS for SB 2952**, **HB 2263** and **SB 948** were withdrawn from the Committee on Ways and Means.

On motion by Senator Dantzler, by two-thirds vote **SB 2498** was withdrawn from the committees of reference and further consideration.

On motion by Senator Jennings, by two-thirds vote **CS for SB 2660** was withdrawn from the Committee on Judiciary; **CS for SB 2510** and **SB 2768** were withdrawn from the Committee on Commerce and Economic Opportunities; **SB 2950** and **SB 2706** were withdrawn from the Committee on Governmental Reform and Oversight; **CS for SB 2500** was withdrawn from the Committee on Rules and Calendar; and **SB 2848** and **SB 2836** were withdrawn from the Committee on Health and Rehabilitative Services.

On motion by Senator Diaz-Balart, by two-thirds vote **SB 470**, **CS for SB 652**, **CS for SB 796**, **CS for SB 814**, **CS for SB 1146**, **SB 1240**, **SB 1802**, **SB 2006**, **SB 2220**, **SB 2226**, **SB 2228**, **SB 2248**, **CS for SB 2448**, **SB 2462**, **CS for SB 2518**, **SB 2520**, **SB 2756**, **SB 2836**, **CS for CS for SB 2844**, **CS for SJR 2902**, **CS for SB 2968**, **CS for SB 3024**, **SB 2948**, **CS for SB 2904**, **SB 920** and **SB 1874** were withdrawn from the Committee on Ways and Means; and **CS for SB 120** and **CS for SB 1010** were removed from the calendar and rereferred to the Committee on Ways and Means.

## SPECIAL ORDER CALENDAR

The Senate resumed consideration of—

**SB 1290**—A bill to be entitled An act relating to the Judiciary; amending s. 26.031, F.S.; increasing the number of judges in certain judicial circuits; amending s. 34.022, F.S.; increasing the number of judges in certain county courts; providing effective dates.

—which was previously considered and amended April 30.

Pending further consideration of **SB 1290** as amended, on motion by Senator Dudley, by two-thirds vote **HB 2695** was withdrawn from the Committee on Judiciary.

On motion by Senator Dudley, by two-thirds vote—

**HB 2695**—A bill to be entitled An act relating to the judiciary; amending s. 26.031, F.S.; increasing the number of judges in specified judicial circuits; amending s. 34.022, F.S.; increasing the number of judges in specified county courts; providing for election; providing effective dates.

—a companion measure, was substituted for **SB 1290** and by two-thirds vote read the second time by title.

On motion by Senator Dudley, by two-thirds vote **HB 2695** was read the third time by title, passed by the required constitutional two-thirds vote of the membership and certified to the House. The vote on passage was:

Yeas—36      Nays—None

Consideration of SB 2890, SB 486 and SB 666 was deferred.

#### SENATOR DUDLEY PRESIDING

**CS for SB 698**—A bill to be entitled An act relating to transportation; reenacting and amending s. 334.045, F.S.; providing for performance and productivity standards for evaluating the Department of Transportation; repealing s. 118(12), ch. 90-136, Laws of Florida; abrogating the repeal of s. 334.045, F.S.; amending s. 337.02, F.S.; revising provisions relating to purchases by the department which are subject to competitive bids; creating s. 337.025, F.S.; authorizing the Department of Transportation to establish a program for highway projects demonstrating innovative techniques of highway construction and finance; providing criteria; providing limitations; amending s. 337.105, F.S.; requiring audits for providers of professional services; authorizing the department to set limits on indirect costs; amending s. 337.11, F.S.; authorizing the department to develop procedures for the administration of maintenance contracts; providing for bids to the lowest evaluated responsible bidder with respect to time-plus-money contracts; granting the department unilateral authority to pay contractors for work performed on a project; providing for the effect of such unilateral authority; amending s. 337.14, F.S.; conforming the act to exclude maintenance contracts from the application of the section; amending s. 337.251, F.S.; revising provisions relating to the lease of property for joint public-private development and areas above or below department property; amending s. 338.223, F.S.; authorizing the department, with the approval of the Legislature, to use federal and state transportation funds to lend or pay a portion of the operating, maintenance, and capital costs of certain toll projects; amending s. 339.08, F.S.; revising provisions relating to the use of moneys in the State Transportation Trust Fund to conform to the act; amending s. 339.0805, F.S.; eliminating the requirement of a registration fee for certain contractors who have demonstrated satisfactory project performance; directing the department to retain certain contract amounts designated for the disadvantaged business enterprises; repealing ss. 341.401-341.422, F.S.; repealing the Magnetic Levitation Demonstration Project Act; creating s. 479.261, F.S.; providing a purpose; providing for implementation of a logo sign program; authorizing the issuance of logo sign permits; authorizing contracting for services; establishing a permit fee cap; providing for rules; repealing s. 12 of ch. 90-227, Laws of Florida; abrogating the repeal of ss. 339.12, 339.121, F.S., which provide for aid and contributions by governmental entities for rights-of-way, construction, or maintenance of roads and bridges on the State Highway System and public transportation; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendments which were moved by Senator Beard and adopted:

**Amendment 1**—On page 6, lines 24-30, delete those lines and insert:

Section 6. Paragraphs (a) and (b) of subsection (3), subsection (4), and paragraph (b) of subsection (6) of section 337.11, Florida Statutes, are amended, present subsections (11), (12), and (13) of that section are redesignated as subsections (12), (13), and (14), respectively, and a new subsection (11), subsection (15), and subsection (16) are added to that section to read:

**Amendment 2 (with title amendment)**—On page 8, between lines 23 and 24, insert:

(16) *The department is authorized to undertake and contract to provide an owner controlled insurance plan (OCIP) on any construction project or group of related construction projects if the head of the department determines that an OCIP will be both cost effective for the department and otherwise in its best interests. Such OCIP may provide insurance coverage for the department and for worker's compensation and employers liability and general liability and builders risk for contractors and subcontractors, for and in conjunction with any or all work performed on such projects. The department may directly purchase such coverage in the manner provided for the purchase of commodities pursuant to s. 287.057, or self-insure, or use a combination thereof, any other statutory provisions or limitations on self-insurance or purchase of insurance notwithstanding. The department's authority hereunder includes the purchase of risk management, risk and loss control, safety management, investigative and claims adjustment services, advancement of*

*funds for payment of claims and other services reasonably necessary to process and pay claims under and administer the OCIP. In addition to any prequalification required under s. 337.14, no contractor shall be prequalified to bid on an OCIP project unless the contractor's casualty and loss experience and safety record meets the minimum requirements for OCIP coverage issuance on the project, were the contractor to be awarded the project. Exercise of the department's authority under this subsection shall not be deemed a waiver of sovereign immunity.*

And the title is amended as follows:

On page 1, line 28, after the first semicolon (;) insert: authorizing the use of owner controlled insurance plans on construction projects;

**Amendment 3 (with title amendment)**—On page 13, line 19 through page 15, line 12, delete those lines and insert: department annually to the highest bidders, notwithstanding the limitation on fees in subsection (5), which are qualified for available space at each qualified location, but the fees therefor may not be less than the fees established for logo participants in other logo categories.

(2) The logo sign program may be implemented at qualified interchanges on the interstate highway system. All interchanges with logo signs erected on the effective date of this section are qualified and additional interchanges may be qualified pursuant to this section.

(3) Logo signs may be installed upon the issuance of an annual permit by the department or its agent and payment of an application and permit fee to the department or its agent.

(4) The department may contract pursuant to s. 287.057 for the provision of services related to the logo sign program, including recruitment and qualification of businesses, review of applications, permit issuance, and fabrication, installation, and maintenance of logo signs. The department may reject all proposals and seek another request for proposals or otherwise perform the work. If the department contracts for the provision of services for the logo sign program, the contract must require, unless the business owner declines, that businesses that previously entered into agreements with the department to privately fund logo sign construction and installation be reimbursed by the contractor for the cost of the signs which has not been recovered through a previously agreed upon waiver of the fees. The contract also may allow the contractor to retain a portion of the annual fees as compensation for its services.

(5) Permit fees for businesses that participate in the program must be established in an amount sufficient to offset the total cost to the department for the program, including contract costs. The department shall provide the services in the most efficient and cost-effective manner through department staff or by contracting for some or all of the services. However, such annual permit fee may not exceed \$1,250.

(6) This section does not create a proprietary or compensable interest in any logo sign site or location for any permittee, and the department may terminate permits or change locations of logo sign sites as the department determines necessary for construction or improvement of transportation facilities or for improved traffic control or safety.

(7) The department may adopt rules to establish requirements for the qualification and location of logo sign sites, the qualification and distance of businesses, and permit application and processing and to establish other criteria necessary to implement this program and to provide for variances when necessary to serve the interest of the traveling public or when required to ensure equitable treatment of program participants. However, the department or its agent may erect logo signs only where spacing requirements allow at least three logo sign structures on the main road, three logo sign structures on the ramp, and all necessary traffic control signs for each direction of travel.

Section 14. Paragraph (q) of subsection (2) of section 110.205, Florida Statutes, is amended to read:

110.205 Career service; exemptions.—

(2) **EXEMPT POSITIONS.**—The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to paragraph (h), shall be exempted if the position reports to a position in the career service:

(q) All positions not otherwise exempt under this subsection which require as a prerequisite to employment: licensure as a physician pursuant to chapter 458, licensure as an osteopathic physician pursuant to chapter 459, licensure as a chiropractic physician pursuant to chapter 460, including those positions which are occupied by employees who are exempted from licensure pursuant to s. 409.352; licensure as an engineer pursuant to chapter 471, which are supervisory positions *except for such positions in the Department of Transportation*; or for 12 calendar months, which require as a prerequisite to employment that the employee have received the degree of Bachelor of Laws or Juris Doctor from a law school accredited by the American Bar Association and thereafter membership in The Florida Bar, except for any attorney who serves as a hearing officer pursuant to s. 120.65 or for hearings conducted pursuant to s. 120.57(1)(a). Unless otherwise fixed by law, the department shall set the salary and benefits for these positions in accordance with the rules established for the Selected Exempt Service.

Section 15. Subsection (3) of section 206.46, Florida Statutes, is amended to read:

206.46 State Transportation Trust Fund.—

(3) Through fiscal year 1999-2000, a minimum of 14.3 percent of all state revenues deposited into the State Transportation Trust Fund shall be committed annually by the department for public transportation projects in accordance with *chapter 311*, ss. 332.003-332.007, and chapter 341. Beginning in fiscal year 2000-2001, and each year thereafter, a minimum of 15 percent of all state revenues deposited into the State Transportation Trust Fund shall be committed annually by the department for public transportation projects in accordance with *chapter 311*, ss. 332.002-332.007, and chapter 341.

Section 16. Paragraph (c) of subsection (6) of section 332.007, Florida Statutes, is amended to read:

332.007 Administration and financing of aviation and airport programs and projects; state plan.—

(6) Subject to the availability of appropriated funds, the department may participate in the capital cost of eligible public airport and aviation development projects in accordance with the following rates, unless otherwise provided in the General Appropriations Act or the substantive bill implementing the General Appropriations Act:

(c) When federal funds are not available, the department *may* ~~is authorized to fund up to 80 90 percent of master planning and eligible aviation development capital projects at any publicly owned, publicly operated airports Florida resource airport identified by the statewide aviation system plan as a facility needed to meet future state aviation system demands. Such funding is limited to airports that have no scheduled commercial service services; that are owned by a city, county, or airport authority that does not have an airport with scheduled commercial service; and that have not received a federal capital grant in the last 4 years.~~

Section 17. Subsections (1) and (2) of section 316.187, Florida Statutes, are amended to read:

316.187 Establishment of state speed zones.—

(1) Whenever the Department of Transportation determines, upon the basis of an engineering and traffic investigation, that any speed ~~hereinafter set forth in s. 316.183(2) or (3)~~, is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place, or upon any part of a highway outside of a municipality or upon any state roads, connecting links or extensions thereof within a municipality, the Department of Transportation may determine and declare a reasonable and safe speed limit thereat which shall be effective when appropriate signs giving notice thereof are erected at the intersection or other place or part of the highway.

(2)(a) The maximum *allowable* speed limit on limited access highways ~~on highways on the interstate system located outside an urbanized area of 50,000 population or more is 70 65 miles per hour. For purposes of setting speed limits under this section, the urbanized area is that defined by the original boundary established April 1, 1990, by the Bureau of the Census based on population density, and in accordance with federal regulations defining the application of speed limits above 55 miles per hour.~~

~~(b) The maximum speed limit on other limited access highways, including the Florida Turnpike, is 65 miles per hour. These speed limits shall take effect upon the posting of appropriate signs. Should the United States Department of Transportation take final action to apply sanctions under federal law or federal regulation involving the loss of federal highway funding to the State of Florida as a result of the increase in speed limits, then the Department of Transportation shall return the maximum speed limit to 55 miles per hour.~~

(b)(e) The maximum allowable speed limit on any *other* highway which is outside *an* the urban area of 5,000 or more persons and which has at least four lanes divided by a median strip ~~at least 20 feet wide~~ is 65 miles per hour ~~, provided such speed limit is approved by the Congress.~~

(c)(d) The Department of Transportation is authorized to set such maximum and minimum speed limits for travel over other roadways under its authority as it deems safe and advisable, not to exceed as a maximum limit ~~60 55~~ miles per hour.

~~(e) The maximum limit shall be increased to not more than 70 miles per hour on limited access highways in the event the Congress approves such limits.~~

Section 18. Subsections (1) and (2) of section 316.189, Florida Statutes, are amended to read:

316.189 Establishment of municipal and county speed zones.—

(1) MUNICIPAL SPEED.—The maximum speed within any municipality is 30 miles per hour. With respect to residence districts, a municipality may set a maximum speed limit of 25 miles per hour on local streets and highways after an investigation determines that such a limit is reasonable. It shall not be necessary to conduct a separate investigation for each residence district. A municipality may set speed zones altering the speed limit, both as to maximum, not to exceed ~~60 55~~ miles per hour, and minimum, after investigation determines such a change is reasonable and in conformity to criteria promulgated by the Department of Transportation, except that no changes shall be made on state highways or connecting links or extensions thereof, which shall be changed only by the Department of Transportation.

(2) SPEED ON COUNTY ROADS.—The maximum speed on any county-maintained road is:

(a) In any business or residence district, 30 miles per hour in the daytime or nighttime; provided that with respect to residence districts a county may set a maximum speed limit of 25 miles per hour after an investigation determines that such a limit is reasonable; and it shall not be necessary to conduct a separate investigation in each residence district.

(b) On any other part of a county road not a business or residence district, as set forth in s. 316.183.

However, the board of county commissioners may set speed zones altering such speeds, both as to maximum and minimum, after investigation determines such a change is reasonable and in conformity to criteria promulgated by the Department of Transportation, except that no such speed zone shall permit a speed of more than ~~60 55~~ miles per hour.

Section 19. Section 334.27, Florida Statutes, is created to read:

334.27 Governmental transportation entities; property acquired for transportation purposes; limitation on soil or groundwater contamination liability.—

(1) For the purposes of this section, the term "governmental transportation entity" means the department; an authority created pursuant to chapter 343, 348, or 349; a county; or a municipality.

(2) When a governmental transportation entity acquires property for a transportation facility or in a transportation corridor through the exercise of eminent domain authority, or by purchase or donation, it is not subject to any liability imposed by chapter 376 or chapter 403 for preexisting soil or groundwater contamination due solely to its ownership. This section does not affect the rights or liabilities of any past or future owners of the acquired property nor does it affect the liability of any governmental entity for the results of its actions which create or

exacerbate a pollution source. A governmental transportation entity and the Department of Environmental Protection may enter into interagency agreements for the performance, funding, and reimbursement of the investigative and remedial acts necessary for property acquired by the department.

Section 20. Paragraph (a) of subsection (4) of section 337.18, Florida Statutes, is amended to read:

337.18 Surety bonds; requirement with respect to contract award; defaults; damage assessments.—

(4)(a) If the department determines and adequately documents that the timely completion of any project is essential to the public health, safety, or welfare, or is cost beneficial on a revenue-producing project, the contract for such project may provide for an incentive payment payable to the contractor for early completion of the project or critical phases of the work and for additional damages to be assessed against the contractor for the completion of the project or critical phases of the work in excess of the time specified. All contracts containing such provisions shall be approved by the head of the department or his or her designee. The amount of such incentive payment or such additional damages shall be established in the contract but shall not exceed \$10,000 per calendar day ~~for a maximum period of 60 days~~, except that for revenue-producing projects the amounts and periods of the incentive may be greater if an analysis indicates that additional revenues projected to be received upon completion of the project will exceed the cost of the incentive payments. Any liquidated damages provided for under subsection (2) and any additional damages provided for under this subsection shall be payable to the department because of the contractor's failure to complete the contract work within the time stipulated in the contract or within such additional time as may have been granted by the department.

Section 21. Subsection (4) of section 337.25, Florida Statutes, is amended to read:

337.25 Acquisition, lease, and disposal of real and personal property.—

(4) The department may sell, in the name of the state, any land, building, or other property, real or personal, which was acquired under the provisions of subsection (1) and which the department has determined is not needed for the construction, operation, and maintenance of a transportation facility. *With the exception of any parcel governed by paragraph (c), paragraph (d), paragraph (f), paragraph (g), or paragraph (i), the department shall afford first right of refusal to the local government in the jurisdiction of which the parcel is situated.* When such a determination has been made, property may be disposed of in the following manner:

(a) If the value of the property is \$10,000 or less as determined by department estimate, the department may negotiate the sale.

(b) If the value of the property exceeds \$10,000 as determined by department estimate, such property may be sold to the highest bidder through receipt of sealed competitive bids, after due advertisement, or by public auction held at the site of the improvement which is being sold.

(c) If, in the discretion of the department, public sale would be inequitable, properties may be sold by negotiation to the owner holding title to the property abutting the property to be sold, provided such sale is at a negotiated price not less than fair market value as determined by an independent appraisal, the cost of which shall be paid by the owner of the abutting land. If negotiations do not result in the sale of the property to the owner of the abutting land and the property is sold to someone else, the cost of the independent appraisal shall be borne by the purchaser; and the owner of the abutting land shall have the cost of the appraisal refunded to him or her. If, however, no purchase takes place, the owner of the abutting land shall forfeit the sum paid by him or her for the independent appraisal. If, due to action of the department, the property is removed from eligibility for sale, the cost of any appraisal prepared shall be refunded to the owner of the abutting land.

(d) If property acquired for use as a borrow pit is no longer needed, the department may sell such property to the owner of the parcel of abutting land from which the borrow pit was originally acquired, provided the sale is at a negotiated price not less than fair market value as determined by an independent appraisal, the cost of which shall be paid by the owner of such abutting land.

(e) If the department begins the process for disposing of the property on its own initiative, either by negotiation under the provisions of paragraph (a), paragraph (c), paragraph (d), or paragraph (i), or by receipt of sealed competitive bids or public auction under the provisions of paragraph (b) or paragraph (i), a department staff appraiser may determine the fair market value of the property by an appraisal.

(f) Any property which was acquired by a county or by the department using constitutional gas tax funds for the purpose of a right-of-way or borrow pit for a road on the State Highway System, State Park Road System, or county road system and which is no longer used or needed by the department may be conveyed without consideration to that county. The county may then sell such surplus property upon receipt of competitive bids in the same manner prescribed in this section.

(g) If a property has been donated to the state for transportation purposes and the facility has not been constructed for a period of at least 5 years and no plans have been prepared for the construction of such facility and the property is not located in a transportation corridor, the governmental entity may authorize reconveyance of the donated property for no consideration to the original donor or the donor's heirs, successors, assigns, or representatives.

(h) If property is to be used for a public purpose, the property may be conveyed without consideration to a governmental entity.

(i) If property was originally acquired specifically to provide replacement housing for persons displaced by federally assisted transportation projects, the department may negotiate for the sale of such property as replacement housing. As compensation, the state shall receive no less than its investment in such properties or fair market value, whichever is lower. It is expressly intended that this benefit be extended only to those persons actually displaced by such project. Dispositions to any other persons must be for fair market value.

Section 22. Subsection (2) of section 349.10, Florida Statutes, is amended to read:

349.10 Acquisition of lands and property.—

(2) *The authority may acquire such rights, title, interest, or easements in such lands as it may deem necessary for any of the purposes of this chapter.* ~~All property rights acquired under the provisions of this law shall be in fee simple.~~

Section 23. Paragraph (a) of subsection (3) of section 339.175, Florida Statutes, is amended to read:

339.175 Metropolitan planning organization.—It is the intent of the Legislature to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will maximize the mobility of people and goods within and through urbanized areas of this state and minimize, to the maximum extent feasible, and together with applicable regulatory government agencies, transportation-related fuel consumption and air pollution. To accomplish these objectives, metropolitan planning organizations, referred to in this section as M.P.O.'s, shall develop, in cooperation with the state, transportation plans and programs for metropolitan areas. Such plans and programs must provide for the development of transportation facilities that will function as an intermodal transportation system for the metropolitan area. The process for developing such plans and programs shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems.

(3) APPORTIONMENT.—

(a) The Governor shall, with the agreement of the affected units of general-purpose local government as required by federal rules and regulations, apportion the membership on the applicable M.P.O. among the various governmental entities within the area and shall prescribe a method for appointing alternate members who may vote at any M.P.O. meeting *that an alternate member attends in place of a regular member at which the regular members in attendance do not comprise a quorum.* An appointed alternate member must be an elected official serving the same governmental entity or a general-purpose local government with jurisdiction within all or part of the area that the regular member serves. The governmental entity so designated shall appoint the appropriate number of members to the M.P.O. from eligible officials. Representatives of the department shall serve as nonvoting members of the



M.P.O. Nonvoting advisers may be appointed by the M.P.O. as deemed necessary. The Governor shall review the composition of the M.P.O. membership at least every 5 years and reapportion it as necessary to comply with subsection (2).

Section 24. (1) In Dade County, that portion of State Road 985, known locally as Southwest 107th Avenue, from Southwest 24th Street to State Road 90, known locally as Southwest 8th Street, is designated "F.I.U. Avenue."

(2) The Department of Transportation is directed to erect suitable markers designating "F.I.U. Avenue" as described in subsection (1).

Section 25. (1) In Dade County, that portion of State Road 90, known locally as Southwest 8th Street, from State Road 985, known locally as Southwest 107th Avenue, to Southwest 112th Avenue is designated "Golden Panther Trail."

(2) The Department of Transportation is directed to erect suitable markers designating "Golden Panther Trail" as described in subsection (1).

Section 26. (1) That portion of Southwest 72nd Street from Southwest 42nd Avenue to Southwest 157th Avenue in Dade County is hereby designated as "Marjory Stoneman Douglas Sunset Drive."

(2) The Department of Transportation is directed to erect suitable markers designating "Marjory Stoneman Douglas Sunset Drive" as described in subsection (1).

Section 27. From funds appropriated to the Center for Urban Transportation Research from the State Transportation Trust Fund, the center must perform a review of the current functions of the expressway authorities, transportation authorities, and other transportation special districts or entities created by or pursuant to law that own or operate roadways or bridges or toll facilities. This review should not include dependent special districts or departments of any city or county government performing transportation functions.

For each entity, the review should identify what projects or systems are currently within the control of the entity and the authority and function of each entity in the funding, planning, constructing, operating and maintaining of those transportation facilities. The review should address how each entity interacts with local government, other entities of a similar type, M.P.O.'s, the state Department of Transportation, including the turnpike district and the federal government. In addition, the report should address any other issues related to the current functions of these entities which will assist in providing a thorough review of actual performance. The report may include information related to future plans of any entity examined but should not provide independent recommendations related to future roles and responsibilities of the entities reviewed.

The center must provide progress reports to the Senate and House Transportation Committees upon request and must provide a completed report to the President of the Senate, the Speaker of the House of Representatives, the House Transportation Committee and, the Senate Transportation Committee by October 15, 1996.

Section 28. Paragraph (f) of subsection (1) of section 341.3334, Florida Statutes, is amended to read:

341.3334 Franchise review process.—

(1) In assessing an application for franchise, the department shall consider, but is not limited to, the following:

(f) The extent to which the high-speed rail transportation system impacts on, connects with, and complements other transportation facilities and services, including airports, commuter rail systems, ~~the magnetic levitation demonstration project certified pursuant to ss. 341.401-341.422,~~ and other public transit systems, and the type, location, and financing of any transit connections with associated developments or joint developments in which the franchisee has an interest;

Section 29. Section 341.501, Florida Statutes, is amended to read:

341.501 High-technology transportation systems; joint project agreement or assistance.—Notwithstanding any other provision of law,

the Department of Transportation may enter into a joint project agreement with, or otherwise assist, private or public entities, or consortia thereof, to facilitate the research, development, and demonstration of high-technology transportation systems, including, but not limited to, systems using magnetic levitation technology. The provisions of the Florida High-Speed Rail Act, ss. 341.3201-341.386, ~~and the Magnetic Levitation Demonstration Project Act, ss. 341.401-341.422,~~ do not apply to actions taken under this section, and the department may, subject to s. 339.135, provide funds to match any available federal aid for effectuating the research, development, and demonstration of high-technology transportation systems.

Section 30. Section 343.68, Florida Statutes, is hereby repealed.

Section 31. Notwithstanding section 496.425, Florida Statutes, a governmental entity or authority that owns or operates an airport, as defined in section 332.01, Florida Statutes, may not be required to issue a permit or grant any person access to airport property for the purpose of soliciting funds.

Section 32. Section 705.17, Florida Statutes, is amended to read:

705.17 Exceptions.—The provisions of ss. 705.101-705.106 of this chapter shall not be applied to any personal property lost or abandoned on the campus of any institution in the State University System or on premises owned or controlled by the operator of a public-use airport having regularly scheduled international passenger service.

Section 33. Section 705.18, Florida Statutes, is amended to read:

705.18 Disposal of personal property lost or abandoned on university or community college campuses or certain public-use airports; disposition of proceeds from sale thereof.—

(1) Whenever any lost or abandoned personal property shall be found on a campus of an institution in the State University System or a campus of a state-supported community college, or on premises owned or controlled by the operator of a public-use airport having regularly scheduled international passenger service, the president of the institution or his designee or the director of the airport or his designee shall take charge thereof and make a record of the date such property was found. If, within 30 days after such property is found, or a longer period of time as may be deemed appropriate by the president or the director under the circumstances, it is not claimed by the owner, the president or director shall order it sold at public outcry after giving notice of the time and place of sale in a publication of general circulation on the campus of such institution or within the county where the airport is located and written notice to the owner if known. The rightful owner of such property may reclaim same at any time prior to sale.

(2) All moneys realized from such institution's sale shall be placed in an appropriate fund and used solely for student scholarship and loan purposes. All moneys realized from such sale by an airport, less its costs of storage, transportation, and publication of notice, shall, unless another use is required by federal law, be deposited into the state school fund.

Section 34. Subsection (3) of section 337.408, Florida Statutes, is amended to read:

337.408 Regulation of benches, transit shelters, and waste disposal receptacles within rights-of-way.—

(3) The department has the authority to direct the immediate relocation or removal of any bench, transit shelter, or waste disposal receptacle which endangers life or property, except that transit bus benches which have been placed in service prior to April 1, 1992, do not have to comply with bench size and advertising display size requirements which have been established by the department prior to March 1, 1992. Any transit bus bench that was in service prior to April 1, 1992, may be replaced with a bus bench of the same size or smaller, if the bench is damaged or destroyed or otherwise becomes unusable.

Section 35. Subsection (1) of section 316.0741, Florida Statutes, is amended to read:

316.0741 High occupancy vehicle lanes.—

(1) "High occupancy vehicle lane" or "HOV lane" means a lane of a public roadway designated for use by vehicles in which there is more than one occupant unless otherwise authorized by federal law.

Section 36. Section 334.075, Florida Statutes, is repealed.  
(Renumber subsequent sections.)

And the title is amended as follows:

On page 2, line 25, after the semicolon (;) insert: amending s. 110.205, F.S.; providing that certain positions in the Department of Transportation are not exempt from career service; amending s. 206.46, F.S.; authorizing port projects to be considered public transportation projects; amending s. 332.007, F.S.; authorizing the department to participate in eligible aviation development projects; amending s. 316.187, F.S.; raising the maximum speed on limited access highways and the interstate system; amending s. 316.189, F.S.; raising the maximum speed on municipal and county roads; creating s. 334.27, F.S.; providing a definition; providing that a governmental transportation entity is not liable for preexisting soil or groundwater contamination; amending s. 337.18, F.S.; to remove the cap from incentive payments; amending s. 337.25, F.S.; providing for the right of first refusal when the department disposes of certain parcels of property; amending s. 349.10, F.S.; authorizing the Jacksonville Transportation Authority to acquire rights, title, interest or easements; amending s. 339.175, F.S.; providing criteria for when alternate members of metropolitan planning organizations may vote; providing standards for appointment of alternate members; designating a portion of State Road 985 in Dade County as "F.I.U. Avenue"; directing the Department of Transportation to erect suitable markers; designating a portion of State Road 90 in Dade County as "Golden Panther Trail"; directing the Department of Transportation to erect suitable markers; designating a portion of Southwest 72nd Street as "Marjory Stoneman Douglas Sunset Drive"; directing the Department of Transportation to erect suitable markers; directing the Center for Urban Transportation Research to review functions of expressway authorities, transportation authorities, and other entities that own or operate roadways or bridges or toll facilities; amending s. 341.3334, F.S.; correcting a cross reference; amending s. 341.501, F.S.; correcting a cross reference; repealing s. 343.68, F.S.; providing that a governmental entity that owns or operates an airport may not be required to allow solicitation on airport property; amending s. 705.17, F.S.; providing that specified provisions of ch. 705, F.S., shall not apply to personal property lost or abandoned on the premises of certain public-use airports; amending s. 705.18, F.S.; providing procedure for disposal of personal property lost or abandoned on the premises of such airports; amending s. 337.408, F.S.; authorizing replacement of same size or smaller bus benches; amending s. 316.0741, F.S.; providing that other vehicles may travel in HOV lanes if authorized by federal law; repealing s. 334.075, F.S., relating to establishing qualifications for employment of drawbridge operators;

Senator Ostalkiewicz moved the following amendment which was adopted:

**Amendment 4 (with title amendment)**—On page 15, between lines 14 and 15, insert:

Section 15. Paragraph (a) of subsection (3) of section 336.025, Florida Statutes, as amended by chapter 95-417, Laws of Florida, is amended to read:

336.025 County transportation system; levy of local option fuel tax on motor fuel and diesel fuel.—

(3) The tax authorized pursuant to paragraph (1)(a) shall be levied using either of the following procedures:

(a) The tax may be levied by an ordinance adopted by a majority vote of the governing body or upon approval by referendum. Such ordinance shall be adopted in accordance with the requirements imposed under one of the following circumstances, whichever is applicable:

1. The county may, prior to June 1, establish by interlocal agreement with one or more of the municipalities located therein, representing a majority of the population of the incorporated area within the county, a distribution formula for dividing the entire proceeds of the local option fuel tax among the county government and all eligible municipalities within the county. If no interlocal agreement exists, a new interlocal agreement may be established prior to August 1, 1986, or June 1 of any year thereafter pursuant to this subparagraph. However, any interlocal agreement agreed to under this subparagraph after the initial imposition of the tax, extension of the tax, or change in the tax rate authorized in this section shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds which are backed by

taxes authorized by this section, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of establishment of the new interlocal agreement.

2. If an interlocal agreement has not been executed pursuant to subparagraph 1., the county may, prior to June 10, adopt a resolution of intent to levy the tax allowed in paragraph (1)(a).

3. *Notwithstanding subparagraphs 1. and 2., any inland county with a population greater than 500,000 as of July 1, 1996, with an interlocal agreement with one or more of the incorporated areas within the county established pursuant to subparagraph 1. must utilize the population estimates of local governmental units as of April 1 of each year pursuant to s. 186.901, for dividing the proceeds of the local option fuel tax contained in such interlocal agreement. However, any interlocal agreement agreed to under this subparagraph after the initial imposition of the tax, extension of the tax, or change in the tax rate authorized in this section shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds which are backed by taxes authorized by this section, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of establishment of the new interlocal agreement.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 3, line 1, after the semicolon (;) insert: amending s. 336.025, F.S.; revising provisions relating to a distribution formula for interlocal agreements;

On motion by Senator Beard, by two-thirds vote **CS for SB 698** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37      Nays—None

### NON-CONTROVERSIAL SPECIAL ORDER CALENDAR

On motions by Senator Thomas, by two-thirds vote—

**HB 869**—A bill to be entitled An act relating to the Apalachicola Bay oyster surcharge; providing that collection of the surcharge during a specified period may not be enforced by the Department of Revenue; providing for credits or refunds for surcharge amounts paid by wholesale dealers during that period; providing an effective date.

—a companion measure, was substituted for **SB 54** and by two-thirds vote read the second time by title. On motion by Senator Thomas, by two-thirds vote **HB 869** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36      Nays—None

Consideration of **SB 48** was deferred.

**CS for SB 1986**—A bill to be entitled An act relating to transportation project environmental mitigation; creating s. 373.4137, F.S.; providing legislative intent; providing criteria for the development of environmental impact inventories for state transportation projects; providing for environmental impact costs; providing for the development of conceptual mitigation plans; providing for the implementation of approved mitigation plans; providing that wetland dredge and fill permitting decisions shall be made by the appropriate water management district; providing an exception; providing for the application of the act with respect to other provisions of law; providing for the submission of the mitigation program to the Governor and Legislature; amending s. 369.20, F.S.; authorizing the Department of Environmental Protection to create general permits and exemptions; amending s. 373.406, F.S.; providing that part IV of ch. 373, F.S., does not apply to specified activities under s.

369.20, F.S., or s. 369.25, F.S.; amending s. 403.813, F.S.; exempting certain activities permitted under s. 369.20, F.S., or s. 369.25, F.S., from permits required under specified permitting authorities; providing an effective date.

—was read the second time by title.

The Committee on Transportation recommended the following amendment which was moved by Senator Bronson and failed:

**Amendment 1**—On page 4, line 11, after the period (.) insert: No less than 33½ percent of the credits purchased shall be from private mitigation banks provided the cost of the credit is at least twenty percent less than the construction impact cost set forth in subsection (3). The cost difference between the private mitigation bank credit needed to comply with the mitigation requirements of part IV of this chapter and 33 U.S.C. s. 1344, and the Department of Transportation's construction impact cost shall be used for exotic plant control.

Senator Bronson moved the following amendment which was adopted:

**Amendment 2 (with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Section 373.4137, Florida Statutes, is created to read:

373.4137 Mitigation requirements.—

(1) The Legislature finds that environmental mitigation for the impact of transportation projects proposed by the Department of Transportation can be more effectively achieved by regional, long-range mitigation planning rather than on a project-by-project basis. It is the intent of the Legislature that mitigation to offset the adverse effects of these transportation projects be funded by the Department of Transportation and be carried out by the Department of Environmental Protection and the water management districts, including the use of mitigation banks established pursuant to this part.

(2) Environmental impact inventories for transportation projects proposed by the Department of Transportation shall be developed as follows:

(a) Beginning July 1996, the Department of Transportation shall submit annually to the Department of Environmental Protection and the water management districts a copy of its adopted work program and an inventory of habitats addressed in the rules adopted pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted by its plan of construction for transportation projects in the first 3 years of the adopted work program. For the July 1996 submittal, the inventory may exclude those projects which have received permits pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, projects for which mitigation planning or design has commenced, or projects for which mitigation has been implemented in anticipation of future permitting needs.

(b) The environmental impact inventory shall include a description of these habitat impacts, including their location, acreage, and type; state water quality classification of impacted wetlands and other surface waters; any other state or regional designations for these habitats; and a survey of threatened species, endangered species, and species of special concern affected by the proposed project.

(3) To fund the mitigation plan for the projected impacts identified in the inventory described in subsection (2), beginning July 1, 1997, the Department of Transportation shall identify funds quarterly in an escrow account within the State Transportation Trust Fund established by the Department of Transportation for the benefit of the Department of Environmental Protection. Any interest earnings from the escrow account shall be returned to the Department of Transportation. The Department of Environmental Protection shall request a transfer of funds from the escrow account to the Ecosystem Management and Restoration Trust Fund no sooner than 30 days prior to the date the funds are needed to pay for activities contained in the mitigation programs. The amount transferred each year by the Department of Transportation shall correspond to a cost per acre of \$75,000 multiplied by the projected acres of impact identified in the inventory described in subsection (2) within the water management district for that year. The water management district may draw from the trust fund no sooner than 30 days prior to the date funds are needed to pay for activities associated with development

or implementation of the mitigation plan described in subsection (4). Each July 1, beginning in 1998, the cost per acre shall be adjusted by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1996. At the end of each year, the projected acreage of impact shall be reconciled with the acreage of impact of projects as permitted pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, and the following year's transfer of funds shall be adjusted accordingly to reflect the over-transfer or undertransfer of funds from the preceding year. The Department of Environmental Protection is authorized to transfer such funds from the Ecosystem Management and Restoration Trust Fund to the water management districts to carry out the mitigation programs.

(4) Prior to December 31, 1996, each water management district, in consultation with the Department of Environmental Protection, the United States Army Corps of Engineers, and other appropriate federal, state, and local governments, shall develop a plan for the primary purpose of complying with the mitigation requirements adopted pursuant to this part and 33 U.S.C. s. 1344. This plan shall also address significant aquatic and exotic plant problems within wetlands and other surface waters. In developing such plans, the districts shall utilize sound ecosystem management practices to address significant water resource needs. In determining the activities to be included in such plans, the districts shall also consider the purchase of credits from public or private mitigation banks permitted under this part and shall include such purchase as a part of the mitigation plan when such purchase would offset the impact of the transportation project, provide equal benefits to the water resources than other mitigation options being considered, and provide the most cost-effective mitigation option. The mitigation plan shall be preliminarily approved by the water management district governing board and shall be submitted to the secretary of the Department of Environmental Protection for review and final approval. At least 30 days prior to preliminary approval, the water management district shall provide a copy of the draft mitigation plan to any person who has requested a copy.

(a) If the Department of Environmental Protection and water management districts are unable to identify mitigation that would offset the impacts of a project included in the inventory, either due to the nature of the impact or the amount of funds available, that project shall not be addressed in the mitigation plan and the project shall not be subject to the provisions of this section.

(b) Specific projects may be excluded from the mitigation plan and shall not be subject to this section upon the agreement of the Department of Transportation, the Department of Environmental Protection, and the appropriate water management district that the inclusion of such projects would hamper the efficiency or timeliness of the mitigation planning and permitting process.

(c) Those transportation projects that are proposed to commence in fiscal year 1996-1997 shall not be addressed in the mitigation plan, and the provisions of subsection (7) shall not apply to these projects. The Department of Transportation may enter into interagency agreements with the Department of Environmental Protection or any water management district to perform mitigation planning and implementation for these projects.

(d) On July 1, 1996, the Department of Transportation shall transfer to the Department of Environmental Protection \$12 million from the State Transportation Trust Fund for the purposes of the surface water improvement management program and to address statewide aquatic and exotic plant problems within wetlands and other surface waters. Such funds shall be considered an advance upon funds that the Department of Transportation would provide for statewide mitigation during the 1997-1998, 1998-1999, and 1999-2000 fiscal years. This use of mitigation funds for surface water improvement management projects or aquatic and exotic plant control may be utilized as mitigation for transportation projects to the extent that it complies with the mitigation requirements adopted pursuant to this part and 33 U.S.C. s. 1344. To the extent that such activities result in mitigation credit for projects permitted in fiscal year 1996-1997, all or part of the \$12 million funding for surface water improvement management projects or aquatic and exotic plant control in fiscal year 1996-1997 shall be drawn from Department of Transportation mitigation funding for fiscal year 1996-1997 rather than from mitigation funding for fiscal years 1997-1998, 1998-1999, and

1999-2000, in an amount equal to the cost per acre of impact described in subsection (3), times the acreage of impact that is mitigated by such plant control activities. Any part of the \$12 million that does not result in mitigation credit for projects permitted in fiscal year 1996-1997 shall remain available for mitigation credit during fiscal years 1997-1998, 1998-1999, or 1999-2000.

(5) The water management district shall be responsible for ensuring that mitigation requirements pursuant to 33 U.S.C. s. 1344 are met for the impacts identified in the inventory described in subsection (2), by implementation of the approved plan described in subsection (4) as funded by the Department of Transportation. During the federal permitting process, the water management district may deviate from the approved mitigation plan in order to comply with federal permitting requirements.

(6) The mitigation plan shall be updated annually to reflect the most current Department of Transportation work program. Each update of the mitigation plan shall be submitted to the secretary of the Department of Environmental Protection for approval as described in subsection (4). However, such approval shall not be applicable to a deviation as described in subsection (5).

(7) Upon approval by the secretary of the Department of Environmental Protection, the mitigation plan shall be deemed to satisfy the mitigation requirements under this part and any other mitigation requirements imposed by local, regional, and state agencies for impacts identified in the inventory described in subsection (2). The approval of the secretary shall authorize the activities proposed in the mitigation plan and no other state, regional, or local permit or approval shall be necessary.

(8) This section shall not be construed to eliminate the need for the Department of Transportation to comply with the requirement to implement practicable design modifications, including realignment of transportation projects, to reduce or eliminate the impacts of its transportation projects on wetlands and other surface waters as required by rules adopted pursuant to this part, or to diminish the authority under this part to regulate other impacts, including water quantity or water quality impacts, or impacts regulated under this part that are not identified in the inventory described in subsection (2).

(9) The recommended mitigation plan shall be annually submitted to the Executive Office of the Governor and the Legislature through the legislative budget request of the Department of Environmental Protection in accordance with chapter 216. Any funds not directed to implement the mitigation plan should, to the greatest extent possible, be directed to fund aquatic and exotic plant problems within the wetlands and other surface waters.

(10) By December 1, 1997, the Department of Environmental Protection, in consultation with the water management districts, shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives describing the implementation of this section, including the use of public and private mitigation banks and other types of mitigation approved in the mitigation plan. The report shall also recommend any amendments to this section necessary to improve the process for developing and implementing mitigation plans for the Department of Transportation. The report shall also include a specific section on how private and public mitigation banks are utilized within the mitigation plans.

Section 2. Subsection (6) of section 369.20, Florida Statutes, is amended to read:

369.20 Florida Aquatic Weed Control Act.—

(6) The department shall adopt, amend, or repeal all rules as necessary to carry out the duties, obligations, and powers set forth in this section and perform any other acts necessary for the proper administration, enforcement, or interpretation of this section, including *creating general permits and exemptions* and adopting rules and forms governing reports.

Section 3. Section 369.252, Florida Statutes, is created to read:

369.252 Invasive exotic plant control on public lands.—The department shall establish a program to:

(1) Achieve eradication or maintenance control of invasive exotic plants on public lands when the scientific data indicate that they are detrimental to the state's natural environment;

(2) Assist state and local government agencies in the development and implementation of coordinated management plans for the control of invasive exotic plant species on public lands;

(3) Contract, or enter into agreements, with entities in the State University System or other governmental entities for research concerning biological control agents; production and growth of biological control agents; and development of workable methods for the management of invasive exotic plants on public lands; and

(4) Use funds in the Aquatic Plant Control Trust Fund as authorized by the Legislature for carrying out activities under this section on public lands.

Section 4. Paragraph (r) is added to subsection (2) of section 403.813, Florida Statutes, to read:

403.813 Permits issued at district centers; exceptions.—

(2) No permit under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, Laws of Florida, 1949, shall be required for activities associated with the following types of projects; however, nothing in this subsection relieves an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or any water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(r) *The removal of noxious aquatic plants, the removal of tussocks, the associated replanting of indigenous aquatic plants, or the associated removal from lakes of unconsolidated, flocculent organic detrital material that exists on the surface of natural mineral soil which is necessary to accomplish such plant removal or replanting, or the removal of aquatic plants for aquatic plant management, including associated incidental removal of sediment attached to plant roots, if these activities have a valid permit issued by the department under s. 369.20 or s. 369.25. This paragraph does not apply to any mitigation proposed to offset the impacts of activities permitted under chapter 373.*

Section 5. With respect to the High Speed Rail Project, any mitigation requirements and associated costs shall be determined by negotiation between the Department of Environmental Protection and the Department of Transportation, but if agreement on mitigation costs cannot be reached, the project may proceed at the rates determined under s. 373.4137(3), Florida Statutes.

Section 6. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to wetlands and surface water permitting; creating s. 373.4137, F.S.; providing legislative intent; providing criteria for the development of environmental impact inventories for state transportation projects by the Department of Transportation for submission to the Department of Environmental Protection and water management districts; providing for transfer of funds by the Department of Transportation to the department for transfer to the districts to fund mitigation programs; providing for development of plans by the water management districts to comply with mitigation requirements and address aquatic and exotic plant problems; providing for inclusion of purchase of credits from mitigation banks; providing for the exclusion of certain projects; providing for a transfer of funds to the Department of Environmental Protection by the Department of Transportation for the surface water improvement management program and to address aquatic and exotic plant problems as an advance of mitigation funding; providing responsibilities of water management districts to ensure mitigation requirements are met by implementation of approved plans; providing for annual update of mitigation programs; providing status of approved mitigation programs; providing for inclusion of mitigation programs in the legislative budget request of the Department of Environmental Protection; requiring a report; amending s. 369.20, F.S.; authorizing the department to create general permits and exemptions under the Florida

Aquatic Weed Control Act; creating s. 369.252, F.S.; providing for eradication and control of invasive exotic plants on public lands; amending s. 403.813, F.S.; providing an exemption from certain permitting requirements for certain activities associated with aquatic plants under certain circumstances; providing for determination of mitigation requirements and costs with respect to the High Speed Rail Project; providing an effective date.

On motion by Senator Bronson, by two-thirds vote **CS for SB 1986** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36      Nays—None

Consideration of **SB 792** and **CS for SB 1028** was deferred.

**CS for SB 1692**—A bill to be entitled An act relating to nonpublic postsecondary institutions; amending s. 246.011, F.S.; declaring the intent of the Legislature to establish a religious exemption from licensing; amending s. 246.041, F.S.; authorizing the State Board of Independent Colleges and Universities to contract with educational agencies; amending s. 246.081, F.S.; deleting the requirement of authorization to operate; amending s. 246.083, F.S.; deleting requirements for an authorization to operate; establishing the requirements for a religious exemption from licensing by the board; providing guidelines for religious nonpublic colleges to qualify for an exemption; amending s. 246.085, F.S.; conforming provisions; amending s. 246.095, F.S.; requiring maintenance of records of previous education and training; amending s. 246.101, F.S.; authorizing waiver of fees; conforming language; repealing s. 246.021(2), (7), and (10), relating to definitions of the terms “authorization,” “ecclesiastical program or major,” and “religious institution”; providing an effective date.

—was read the second time by title. On motion by Senator Ostalkiewicz, by two-thirds vote **CS for SB 1692** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35      Nays—None

Consideration of **SB 1860** was deferred.

**SB 2194**—A bill to be entitled An act relating to funeral directors and embalmers; amending s. 470.002, F.S.; redefining the term “legally authorized person”; amending s. 470.015, F.S.; authorizing the waiver of continuing education requirements; amending s. 470.0201, F.S.; deleting the prohibition against a health and safety education course satisfying the requirement for a separate course; amending s. 470.024, F.S.; deleting the automatic expiration of a license; amending s. 470.025, F.S.; providing additional requirements for a cinerator facility; creating s. 470.0295, F.S.; providing additional rights for a legally authorized person; amending s. 470.0301, F.S.; exempting a cinerator facility from certain registration requirements; amending s. 470.035, F.S.; revising price list requirements; providing an effective date.

—was read the second time by title.

The Committee on Banking and Insurance recommended the following amendment which was moved by Senator Jones and adopted:

**Amendment 1**—On page 4, line 10, after “respect.” insert: *None of the provisions contained herein will require the purchase of a casket for cremation.*

The Committee on Governmental Reform and Oversight recommended the following amendment which was moved by Senator Jones and adopted:

**Amendment 2**—On page 4, lines 3-20, delete those lines and insert:

Section 5. Subsections (13), (14), and (15) are added to section 470.025, Florida Statutes, to read:

470.025 Cinerator facility; licensure.—

(13) A cinerator facility shall not place human remains in a retort unless the human remains are in an alternative container or casket. Human remains may be transported or stored if they are completely covered, and at all times treated with dignity and respect. None of the provisions contained in this subsection require the purchase of a casket for cremation. This subsection applies to at-need contracts and preneed contracts entered into pursuant to chapter 497 after the effective date of this act.

(14) Each cinerator facility shall ensure that all alternative containers or caskets used for cremation contain no amount of chlorinated plastics not authorized by the Department of Environmental Protection, that they also are composed of readily combustible materials suitable for cremation, able to be closed to provide a complete covering for the human remains, resistant to leakage or spillage, rigid enough for handling with ease, and able to provide for the health, safety, and personal integrity of the public and crematory personnel.

(15) The board shall adopt, by rule, criteria for acceptable alternative containers.

On motion by Senator Jones, by two-thirds vote **SB 2194** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37      Nays—None

On motion by Senator Harris, by two-thirds vote **CS for HB 1197** was withdrawn from the Committees on Criminal Justice; and Ways and Means.

On motion by Senator Harris—

**CS for HB 1197**—A bill to be entitled An act relating to cellular telephone fraud; amending s. 817.4821, F.S.; defining the offense of knowingly possessing cloning paraphernalia with intent to use it to create cloned cellular telephones; providing felony penalties; deleting “unlawfully” element of cellular telephone counterfeiting offenses; providing an exception; amending s. 921.0012, F.S., to list the offense on the sentencing guidelines offense severity ranking chart; providing an effective date.

—a companion measure, was substituted for **CS for SB 2508** and read the second time by title. On motion by Senator Harris, by two-thirds vote **CS for HB 1197** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37      Nays—None

**CS for SB 2414**—A bill to be entitled An act relating to wireless communications; amending ss. 282.102, 321.02, and 338.235, F.S.; authorizing certain agencies of the state to enter into contracts or agreements to make available certain property or structures for wireless providers and telecommunications companies under certain circumstances; authorizing the charging of fees for the use of such property; providing an effective date.

—was read the second time by title.

Senator Jenne offered the following amendments which were moved by Senator Dyer and adopted:

**Amendment 1**—On page 2, line 10, and on page 3, line 12, after the comma (,) insert: *with or*

**Amendment 2 (with title amendment)**—On page 2, line 30, insert:

Section 2. Section 282.106, Florida Statutes, is created to read:

282.106 Use of SUNCOM Network by libraries.—The Department of Management Services may provide SUNCOM Network services to any library in the state, including, but not limited to, libraries in public schools, community colleges, the State University System, and nonprofit private postsecondary educational institutions, and libraries owned and operated by municipalities and political subdivisions.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, line 10, after the semicolon (;) insert: creating s. 282.106, F.S.; authorizing the Department of Management Services to provide SUNCOM Network services to certain libraries;

**Amendment 3 (with title amendment)**—On page 4, line 17 through page 5, line 9, delete those lines and insert:

Section 3. Subsections (3) and (4) are added to section 338.235, Florida Statutes, to read:

338.235 Contracts with department for provision of services on the turnpike system.—

(3) *The department may enter into contracts or agreements, with or without competitive bidding or procurement, to make available, on a fair, reasonable, nonexclusive, and nondiscriminatory basis, turnpike property and other turnpike structures, for the placement of wireless facilities by any wireless provider of mobile services as defined in 47 U.S.C. ss. 153(n) or 332(d), and any telecommunications company as defined in s. 364.02 when it is determined to be practical and feasible to make such property or structures available. The department may, without adopting a rule, charge a just, reasonable, and nondiscriminatory fee for placement of the facilities, payable annually, based on the fair market value of space used by comparable communications facilities in the state. The department and a wireless provider may negotiate the reduction or elimination of a fee in consideration of service provided to the department by the wireless provider. All such fees collected by the department shall be deposited directly into the State Agency Law Enforcement Radio System Trust Fund and may be used to construct, maintain, or support the system.*

(4) *The department shall receive credits for any amounts expended or proposed to be expended from the State Transportation Trust Fund for the department's participation in and use of the State Agency Law Enforcement Radio System. Revenue from the fees collected under subsection (3) in amounts equal to such credits shall be deposited in the State Transportation Trust Fund for use by the department under s. 339.08.*

And the title is amended as follows:

On page 1, line 10, after the semicolon (;) insert: authorizing the Department of Transportation to receive certain credits for amounts relating to the State Agency Law Enforcement Radio System; providing for deposit of certain amounts into the State Transportation Trust Fund;

**Amendment 4 (with title amendment)**—On page 5, between lines 9 and 10, insert:

Section 4. Paragraph (a) of subsection (2) of section 282.1095, Florida Statutes, is amended to read:

282.1095 Mutual aid channel.—

(2)(a) The Joint Task Force on State Agency Law Enforcement Communications shall consist of *eight* ~~six~~ members, as follows:

1. A representative of the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation who shall be appointed by the secretary of the department.

2. A representative of the Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles who shall be appointed by the executive director of the department.

3. A representative of the Department of Law Enforcement who shall be appointed by the executive director of the department.

4. A representative of the Game and Fresh Water Fish Commission who shall be appointed by the executive director of the commission.

5. A representative of the Division of Law Enforcement of the Department of Environmental Protection who shall be appointed by the secretary of the department.

6. A representative of the Department of Corrections who shall be appointed by the secretary of the department.

7. A representative of the Division of State Fire Marshal of the Department of Insurance who shall be appointed by the State Fire Marshal.

8. A representative of the Department of Transportation who shall be appointed by the secretary of the department.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 10, after the semicolon (;) insert: amending s. 282.1095, F.S.; increasing membership of the Joint Task Force on State Agency Law Enforcement Communications;

On motion by Senator Dyer, by two-thirds vote **CS for SB 2414** as amended was read the third time by title.

On motion by Senator Dyer, further consideration of **CS for SB 2414** as amended was deferred.

**SB 1068**—A bill to be entitled An act relating to financial institutions; amending s. 517.051, F.S.; providing additional exemptions from the securities registration requirements; amending s. 658.33, F.S.; modifying qualifications of officers and directors of banks and trust companies; providing an effective date.

—was read the second time by title.

The Committee on Banking and Insurance recommended the following amendment which was moved by Senator Rossin and adopted:

**Amendment 1 (with title amendment)**—On page 1, line 12 through page 2, line 23, delete section 1 and renumber subsequent sections.

And the title is amended as follows:

On page 1, lines 3-5, delete those lines and insert: amending s. 658.33, F.S.;

On motion by Senator Rossin, by two-thirds vote **SB 1068** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36      Nays—None

Consideration of **SB 900** was deferred.

**CS for CS for SB 310**—A bill to be entitled An act relating to parking for persons who have disabilities; amending s. 316.008, F.S., relating to powers of local authorities; deleting a cross-reference and revising terminology to conform to the act; amending s. 316.1955, F.S.; revising the requirements for providing parking spaces for certain persons who have disabilities; providing specifications for such parking spaces; providing for leased parking; providing for accessible routes; providing a deadline by which parking facilities must alter existing parking spaces; amending s. 316.1957, F.S.; providing for reduced penalties for violations in specified circumstances; amending s. 316.1958, F.S.; providing for reciprocal recognition of out-of-state license plates or permits, except in lieu of a required Florida driver's license; amending s. 316.1964, F.S.; providing restrictions on free parking in specified parking spaces; amending s. 316.1967, F.S., relating to liability for payment of parking ticket violations and other parking violations; deleting a cross-reference to conform to the act; amending s. 318.14, F.S.; providing that community-service requirements are not waived by a plea of nolo contendere or the withholding of adjudication; amending s. 318.18, F.S.; providing additional civil penalties for certain violations; amending s. 320.08035, F.S., relating to small license plates; deleting a cross-reference to conform to the act; amending s. 320.084, F.S.; exempting veterans who have disabilities from certain parking fees or penalties; providing exceptions; amending s. 320.0842, F.S.; providing for an international symbol of accessibility; amending s. 320.0848, F.S.; providing for the issuance of disabled parking permits that are valid until the renewal date of the applicant's driver's license or identification card or for a prescribed period of time; providing for temporary permits to be issued; providing for rule adoption in order to certify physicians in Alabama or Georgia who practice within 50 miles of this state and who certify persons for purposes of a disabled parking permit; requiring the driver's license or state identification number to be displayed on the placard and such identification to be in



the possession of the placard holder; providing for the issuance of an additional disabled parking permit; providing for fees and a hardship exemption; providing for the distribution of fees; declaring application forms for a disabled parking permit to be "official state documents"; providing increased criminal penalties for supplying false information; providing a criminal penalty for fraudulently obtaining or for using a disabled parking permit or an unauthorized replica of such a permit; amending s. 322.051, F.S.; authorizing any person who has a disability to apply for a state identification card in conjunction with obtaining a disabled parking permit; amending s. 553.505, F.S., relating to exceptions to the Americans with Disabilities Act; revising a cross-reference to conform to changes in the act; requiring renewal of disabled parking permits issued under s. 320.0848, F.S.; providing that certain requirements of this act fulfill an important state interest; repealing s. 316.1956, F.S., which provides for parking spaces by certain entities; providing an effective date.

—was read the second time by title.

The Committee on Community Affairs recommended the following amendments which were moved by Senator Forman and failed:

**Amendment 1**—On page 23, lines 1 and 2, delete those lines and insert: applicant; and the duration of the condition that entitles the person to the permit; and justification for the additional placard pursuant to s. 320.0848(2)(c)1.

**Amendment 2**—On page 25, line 12, after the comma (,) and on page 25, line 13, after "and" insert: \$1.50

**Amendment 3**—On page 25, lines 15-22, delete those lines and insert: Vehicles may not issue an additional disabled parking permit unless the applicant states that they are a frequent traveler or a quadriplegic.

**Amendment 4**—On page 26, line 30 through page 27, line 12, delete those lines and insert:

3. If an applicant who receives Supplemental Security Income (SSI) presents to the Department a statement from the Federal Government or the State of Florida reflecting the applicant is a recipient of SSI, the fee for the initial or renewal 4-year permit is \$9.00, and the fee for the initial or renewal 6-year permit is \$12.75. The \$9.00 fee for the initial or renewal 4-year permits shall be distributed as follows: \$6.75 to the State Transportation Trust Fund and \$2.25 to the tax collector in the county in which the fee was generated. The \$12.75 fee for the initial or renewal 6-year permits shall be distributed as follows: \$10.15 to the State Transportation Trust Fund and \$2.60 to the tax collector in the county in which the fee was generated.

Senator Forman moved the following amendment:

**Amendment 5 (with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Subsection (4) of section 316.008, Florida Statutes, is amended to read:

316.008 Powers of local authorities.—

(4) A county or municipality may enact an ordinance providing a fine for the violation of s. 316.1955 or s. 316.1956 in excess of the fine specified by s. 318.18(7), except that such a fine may not exceed \$250. Any such ordinance may provide for the deposit of such fines in a separate county or municipal account to be used in the following manner:

(a) One-third to be used to defray expenses for the administration of this subsection.

(b) Two-thirds to be used to provide funds to improve accessibility and equal opportunity to qualified physically disabled persons who have disabilities in the county or municipality and to provide funds to conduct public awareness programs in the county or municipality concerning physically disabled persons who have disabilities.

Section 2. Section 316.1955, Florida Statutes, is amended to read:

316.1955 Parking spaces provided by governmental agencies for certain disabled persons who have disabilities.—

(1) State agencies and political subdivisions having jurisdiction over street parking, or publicly owned or operated parking facilities are not required to provide a greater right-of-way width than would otherwise be planned under regulations, guidelines, or practices normally applied to new development.

(2)(4) Each state agency and political subdivision that has having jurisdiction over street parking or publicly owned and operated parking facilities and each commercial real estate property owner who offers public parking shall provide a minimum number of specially designed and marked motor vehicle parking spaces for the exclusive use of those severely physically disabled individuals who have a severe physical disability and have permanent or temporary mobility problems that substantially impair their ability to ambulate and who have been issued either a disabled ~~an exemption~~ parking permit under pursuant to s. 316.1958 or s. 320.0848 or a license plate under pursuant to s. 320.084, s. 320.0842, s. 320.0843, or s. 320.0845.

(3)(2) The following minimum number of such parking spaces must shall be provided:

(a) One space in the immediate vicinity of a building that which houses a governmental entity or a political subdivision, including, but not limited to, state office buildings and courthouses, if no parking for the public is provided on the premises of the such building;

(b) One space for each 150 metered onstreet parking spaces;

(c) Publicly maintained and operated Parking facilities that are intended for public use but are and not subject to paragraph (a) must provide shall have the number of parking spaces for disabled persons who have disabilities a minimum number of parking spaces as set forth in the following table; however, when parking spaces are leased at such publicly maintained and operated parking facilities, the number of parking spaces for disabled persons who have disabilities must shall be increased or decreased on the basis of demonstrated and documented need:

Total Parking in Lot	Required Number of Accessible Spaces
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of total
over 1000	20 plus 1 for each 100 over 1000

Accessible parking spaces at out-patient facilities and facilities that specialize in the treatment of persons with mobility impairments shall allocate the number of accessible spaces specified in section 4.1.2 of the American with Disabilities Act Accessibility Guidelines A minimum of four parking spaces for disabled persons shall be provided at a physical restoration rehabilitation center or a hospital.

(4)(3) Such parking spaces must shall be designed and located as follows:

(a) All spaces must shall have accessible thereto a curb-ramp or curb-cut, when necessary to allow access to the building served, and must shall be located on an accessible route no less than 44 inches wide so that users will not be compelled to walk or wheel behind parked vehicles.

(b) Each space must be located on the shortest safely accessible route from the parking space to an accessible entrance. If there are multiple entrances or multiple retail stores, the parking spaces must be dispersed to provide parking at the nearest accessible entrance. If a theme park or an entertainment complex as defined in s. 509.013(9) provides parking in several lots or areas from which access to the theme park or entertainment complex is provided, a single lot or area may be designated for parking by persons who have disabilities, if the lot or area is located on the shortest safely accessible route to an accessible entrance to the theme park or entertainment complex or to transportation to such an accessible entrance.

(c) Each parking space must be no less than 12 feet wide. Parking access aisles must be no less than 5 feet wide and must be part of an accessible route to the building or facility entrance. The parking access aisles are reserved for the use of persons who have disabled parking permits, and violators are subject to the same penalties that are imposed for illegally parking in parking spaces that are designated for persons who have disabilities. Two accessible parking spaces may share a common access aisle. The access aisle must be striped diagonally to designate it as a no-parking zone. Any provision of this subsection to the contrary notwithstanding, a theme park or an entertainment complex as defined in s. 509.013(9) in which are provided continuous attendant services for directing individuals to marked accessible parking spaces or designated lots for parking by persons who have disabilities, the park or complex may, in lieu of universal spaces, provide parking spaces that comply with either of the alternatives specified in section 4.6.3 of the Americans with Disabilities Act Accessibility Guidelines.

(b) ~~Diagonal or perpendicular parking spaces be a minimum of 12 feet wide but no more than 13 feet wide.~~

(d)(e) Parallel parking spaces must ~~shall~~ be located either at the beginning or end of a block or adjacent to alley entrances. Curbs adjacent to such spaces must ~~shall~~ be of a height that ~~which~~ will not interfere with the opening and closing of motor vehicle doors.

(e)(d) Perpendicular and diagonal ~~Disabled~~ parking spaces and access aisles for persons who have disabilities must be even with surface slopes and must ~~shall~~ not exceed a slope ~~cross slope~~ of 1 to 50 in any direction ~~2 percent~~. Parallel parking spaces must be even with surface slopes, may match the grade of the adjacent travel lane, and must not exceed a cross slope of 1 to 50, where feasible.

(f)(e) Curb ramps must ~~shall~~ be located outside of the disabled parking spaces and access aisles.

(g) Each parking space must conform with the requirements of this section no later than October 1, 1997.

(h)1. The removal of architectural barriers from a parking facility in accordance with 28 C.F.R. s. 36.304 or with s. 553.508 must comply with this section unless compliance would cause the barrier removal not to be readily achievable. If compliance would cause the barrier removal not to be readily achievable, a facility may provide alternative parking spaces for persons who have disabilities and provide appropriate signage directing persons who have disabilities to the alternative parking spaces. The facility may not reduce the required number or dimensions of those spaces, nor may it unreasonably increase the length of the accessible route from a parking space to the facility. The removal of an architectural barrier must not create a significant risk to the health or safety of a person who has a disability or to that of others.

2. A facility that is making alterations under s. 553.507(2)(b) must comply with this section to the maximum extent feasible. If compliance is not feasible, a facility may provide alternative parking spaces for persons who have disabilities and provide appropriate signage directing persons who have a disability to alternative parking spaces. The facility may not reduce the required number or dimensions of those spaces, nor may it unnecessarily increase the length of the accessible route from a parking space to the facility. The alteration must not create a significant risk to the health or safety of a person who has a disability or to that of others.

(5)(4) Each such parking space must ~~shall~~ be prominently outlined with blue paint, and must be repainted when necessary, to be clearly distinguishable as a parking space designated for persons who have disabilities and must be posted with a permanent above-grade sign of a color and design approved by the Department of Transportation, bearing the international symbol of accessibility and the caption "PARKING BY DISABLED PERMIT ONLY." Such sign erected after October 1, 1996, must indicate the penalty for illegal use of the space. Any provision of this section to the contrary notwithstanding, in a theme park or an entertainment complex as defined in s. 509.013(9) in which accessible parking is located in designated lots or areas, the signage indicating the lot as reserved for accessible parking may be located at the entrances to the lot in lieu of a sign at each parking place.

(6)(5) It is unlawful for any person to stop, stand, or park a vehicle within any such specially designated and marked parking space provided in accordance with this section, unless the ~~such~~ vehicle displays a

disabled parking permit issued under ~~pursuant to~~ s. 316.1958 or s. 320.0848 or a license plate issued under ~~pursuant to~~ s. 320.084, s. 320.0842, s. 320.0843, or s. 320.0845, and the ~~such~~ vehicle is transporting the a person to whom the displayed permit is issued ~~eligible for the parking permit~~. The violation may not be dismissed for failure of the markings on the parking space to comply with this section if the space is in general compliance and is clearly distinguishable as a designated space.

(a) Whenever a law enforcement officer, ~~or~~ a parking enforcement specialist, or the owner or lessee of the space finds a vehicle in violation of this subsection, that officer, owner, or lessor shall:

(a) have the vehicle in violation removed to any lawful parking space or facility or require the operator or other person in charge of the vehicle immediately to remove the unauthorized vehicle from the parking space. Whenever any vehicle is removed under this section ~~by a law enforcement officer, parking enforcement specialist, or agency to a storage lot, garage, or other safe parking space, the cost of the such removal and parking constitutes shall be a lien against the vehicle.~~

(b) The officer or specialist shall charge the operator or other person in charge of the vehicle in violation with a noncriminal traffic infraction, punishable as provided in s. 316.008(4) or s. 318.18(7).

(c) All convictions for violations of this section must be reported to the Department of Highway Safety and Motor Vehicles by the clerk of the court.

(d) A law enforcement officer or a parking enforcement specialist has the right to demand to be shown the person's disabled parking permit and driver's license or state identification card when investigating the possibility of a violation of this section. If such a request is refused, the person in charge of the vehicle must be issued a citation for a violation of this section.

(7) ~~However,~~ Any person who is chauffeuring a disabled person who has a disability is ~~shall be~~ allowed, without need for a disabled ~~an~~ identification parking permit or a special license plate, to stand temporarily ~~momentary~~ parking in any such parking space, for the purpose of loading or unloading the ~~such disabled~~ person who has a disability. A ~~No~~ penalty may not ~~shall~~ be imposed upon the driver for such temporary standing ~~momentary~~ parking.

(8)(a) A vehicle that is transporting a person who has a disability and that has been granted a permit under s. 320.0848 may be parked for a maximum of 30 minutes in any parking space reserved for persons who have disabilities.

(b) Notwithstanding paragraph (a), a theme park or an entertainment complex as defined in s. 509.013(9) which provides parking in designated areas for persons who have disabilities may allow any vehicle that is transporting a person who has a disability to remain parked in a space reserved for persons who have disabilities throughout the period the theme park is open to the public for that day.

Section 3. Section 316.1957, Florida Statutes, is amended to read:

316.1957 Parking violations; designated ~~handicapped~~ parking spaces for persons who have disabilities.—

(1) When ~~Whenever~~ evidence is ~~shall be~~ presented in any court of the fact that any motor automobile, truck, or other vehicle was found to be parked in a properly designated ~~handicapped~~ parking space for persons who have disabilities in violation of the provisions of s. 316.1955 or s. 316.1956, it is ~~shall be~~ prima facie evidence that the vehicle was parked and left in the space by the person, firm, or corporation in whose name the vehicle is registered and licensed according to the records of the Division of Motor Vehicles.

(2) If the holder of a parking permit for persons who have disabilities commits an offense under this section, the court shall impose only a penalty in the amount of \$15 if the permit was valid at the time of the violation and if the person presents to the court the permit and a sworn affidavit stating that the permit holder was being transported in the cited vehicle at the time of the violation.

Section 4. Section 316.1958, Florida Statutes, is amended to read:

316.1958 Out-of-state vehicles bearing ~~handicapped~~ identification of issuance to persons who have disabilities.—Motor vehicles displaying a special license plate or parking permit issued to a ~~handicapped~~ person who has a disability by any other state or district subject to the laws of the United States or by a foreign country that issues disabled parking permits that display the international symbol of accessibility are ~~shall be~~ recognized as displaying a valid license plate or permit, that allows, ~~allowing~~ such a vehicle the special parking privileges under s. ~~allowed~~ ~~pursuant to the provisions of ss. 316.1955 and 316.1956, if the provided~~ such other state or district grants reciprocal recognition for ~~handicapped~~ residents of this state who have disabilities. However, when an individual is required by law to have a Florida driver's license, a special motor vehicle license plate or parking permit issued by another state, district, or country to persons who have disabilities is not valid and the individual whose vehicle displays such an invalid plate or permit is subject to the same penalty as an individual whose vehicle does not display a valid plate or permit.

Section 5. Section 316.1964, Florida Statutes, is amended to read:

316.1964 Exemption of vehicles transporting certain disabled persons who have disabilities from payment of parking fees and penalties.—

(1) A ~~No~~ state agency, county, municipality, or any agency thereof, may not ~~shall~~ exact any fee for parking on the public streets or highways or in any metered parking space from the driver of a vehicle that which displays a disabled parking permit or a license plate issued under ~~pursuant to~~ s. 316.1958 or s. 320.0848 or a license plate issued under ~~pursuant to~~ s. 320.084, s. 320.0842, s. 320.0843, or s. 320.0845 if the ~~such~~ vehicle is transporting the a person who has a disability and to whom the disabled ~~eligible for such~~ parking permit or license plate was issued. ~~and~~ ~~shall~~

(2) The driver of ~~such~~ a vehicle that is parked as provided in subsection (1) may not ~~transporting such a person~~ be penalized for parking, except in clearly defined bus loading zones, fire zones, or access aisles adjacent to the parking spaces for persons who have disabilities, or in areas posted as "No Parking" zones or as emergency vehicle zones, or for parking in excess of the posted time limits.

(3) Notwithstanding subsection (1), when a state, county, or municipal parking facility or lot is being used in connection with an event at a convention center, cruise-port terminal, sports stadium, sports arena, coliseum, or auditorium, the parking facility may charge a person whose vehicle displays such a parking permit a parking fee in the same manner and amount as it charges other persons.

(4) A parking facility that restricts the number of consecutive days that a vehicle may be parked may impose that same restriction on a vehicle that displays a disabled parking permit issued to a person who has a disability.

(5) Notwithstanding subsection (1), when a parking meter restricts the duration of time that a vehicle may be parked, a vehicle properly displaying a disabled parking permit is allowed a maximum of 4 hours; however, local governments may extend such time by local ordinance.

(6) A parking facility that leases a parking space for a duration that exceeds 1 week is not required to reduce the fee for a lessee who is disabled.

(7) An airport that owns, operates, or leases parking facilities, or any other parking facilities that are used for the purpose of air travel, may charge for parking vehicles that display a disabled parking permit or license tag issued under s. 316.1958, s. 320.0848, s. 320.084, s. 320.0842, s. 320.0843, or s. 320.0845. However, the governing body of each publicly owned or publicly operated airport must grant free parking to any vehicle with specialized equipment, such as ramps, lifts, or foot or hand controls, or for utilization by a person who has a disability or whose vehicle is displaying the Florida Toll Exemption permit.

(8) Notwithstanding subsection (1), a county, municipality, or any agency thereof may charge for parking in a timed parking space a vehicle that displays a disabled parking permit, except that any vehicle with specialized equipment, such as ramps, lifts, or foot or hand controls, for use by a person who has a disability, or any vehicle that is displaying the Florida Toll Exemption permit, is exempt from any parking fees.

Section 6. Section 316.1967, Florida Statutes, is amended to read:

316.1967 Liability for payment of parking ticket violations and other ~~handicapped~~ parking violations.—

(1) The owner of a vehicle is responsible and liable for payment of any parking ticket violation unless the owner can furnish evidence that the vehicle was, at the time of the parking violation, in the care, custody, or control of another person. In such instances, the owner of the vehicle is required, within a reasonable time after notification of the parking violation, to furnish to the appropriate law enforcement authorities an affidavit setting forth the name, address, and driver's license number of the person who leased, rented, or otherwise had the care, custody, or control of the vehicle. The affidavit submitted ~~under pursuant to~~ this subsection is ~~shall be~~ admissible in a proceeding charging a parking ticket violation and ~~raises shall raise~~ the rebuttable presumption that the person identified in the affidavit is responsible for payment of the parking ticket violation. The owner of a vehicle is not responsible for a parking ticket violation if the vehicle involved was, at the time, stolen or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle.

(2) Any person who is issued a county or municipal parking ticket by a parking enforcement specialist or officer is ~~shall be~~ deemed to be charged with a noncriminal violation and shall comply with the directions on the ticket. ~~If in the event that~~ payment is not received or a response to the ticket is not made within the time period specified thereon, the county court or its traffic violations bureau shall notify the registered owner of the vehicle that which was cited, by mail to the address given on the motor vehicle registration, of the ticket. Mailing of the notice to this address ~~constitutes shall constitute~~ notification. Upon notification, the registered owner shall comply with the court's directive.

(3) Any person who fails to satisfy the court's directive ~~waives shall be deemed to waive~~ his or her right to pay the applicable civil penalty.

(4) Any person who elects to appear before a designated official to present evidence ~~waives shall be deemed to have waived~~ his or her right to pay the civil penalty provisions of the ticket. The official, after a hearing, shall make a determination as to whether a parking violation has been committed and may impose a civil penalty not to exceed \$100 plus court costs. Any person who fails to pay the civil penalty within the time allowed by the court is ~~shall be~~ deemed to have been convicted of a parking ticket violation, and the court shall take appropriate measures to enforce collection of the fine.

(5) Any provision of subsections (2), (3), and (4) to the contrary notwithstanding, ~~the provisions of chapter 318 does shall~~ not apply to violations of county parking ordinances and municipal parking ordinances.

(6) Any county or municipality ~~city~~ may provide by ordinance that the clerk of the court or the traffic violations bureau shall supply the department with a magnetically encoded computer tape reel or cartridge or send by other electronic means data which is machine readable by the installed computer system at the department, listing persons who have three or more outstanding parking violations, including violations of s. 316.1955 ~~or s. 316.1956~~. Each county shall provide by ordinance that the clerk of the court or the traffic violations bureau shall supply the department with a magnetically encoded computer tape reel or cartridge or send by other electronic means data that which is machine readable by the installed computer system at the department, listing persons who have any outstanding violations of s. 316.1955, ~~s. 316.1956~~, or any similar local ordinance that regulates ~~regulating~~ parking in spaces designated for use by disabled persons who have disabilities. The department shall mark the appropriate registration records of persons who are so reported. ~~Section The provisions of s. 320.03(8) applies shall apply to~~ each person whose name appears on the ~~such~~ list.

Section 7. Subsection (9) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(9) Any person who is cited for an infraction under this section other than a violation of s. 320.0605(1), s. 320.07(3)(a), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a court appearance, elect to attend in the location of his or her choice within this state a basic driver improvement course approved by the Department of Highway Safety and Motor Vehicles. In such a case, adjudication ~~must shall~~ be withheld;

points, as provided by s. 322.27, may not be assessed; and the civil penalty that is imposed by s. 318.18(3) ~~must shall~~ be reduced by 18 percent; however, ~~a person may not make an election may not be made~~ under this subsection if ~~the such~~ person has made an election under this subsection in the ~~preceding~~ 12 months ~~preceding election hereunder~~. A person may make no more than five elections under this subsection. ~~The requirement for community service under s. 318.18(7) is not waived by a plea of nolo contendere or by the withholding of adjudication of guilt by a court.~~

Section 8. Subsection (7) of section 318.18, Florida Statutes, is amended to read:

318.18 Amount of civil penalties.—The penalties required for a non-criminal disposition pursuant to ss. 316.2935(6) and 318.14(1), (2), and (4) are as follows:

(7) One hundred dollars for ~~the first violation of illegally parking in a parking space provided for disabled persons under s. 316.1955 or s. 316.1956. For a second or subsequent violation, in addition to the fine of \$100, the violator must complete a minimum of 40 hours of:~~

(a) Community service for a nonprofit organization that serves the disabled community or serves persons who have disabling diseases, or

(b) Any other community service that may sensitize the violator to the needs and obstacles faced daily by persons who have disabilities.

~~The requirement for community service is not waived by a plea of nolo contendere or by the withholding of adjudication of guilt by a court.~~

Section 9. Section 320.08035, Florida Statutes, is amended to read:

320.08035 ~~Disabled Persons who have disabilities;~~ reduced dimension license plate.—The owner or lessee of a motorcycle, moped, motorized bicycle, or motorized disability access vehicle who resides in this state and qualifies for ~~a the disabled person~~ parking permit for a person who has a disability under ~~as defined in~~ s. 320.0848, upon application and payment of the appropriate license tax and fees under s. 320.08(1), ~~must shall~~ be issued a license plate that ~~has in compliance with the reduced dimensions as provided under pursuant to~~ s. 320.06(3)(a). The plate ~~must shall~~ be stamped with the international wheelchair user symbol of accessibility after the numeric and alpha serial number of the license plate. The plate entitles ~~the such~~ person to all privileges afforded by a disabled parking permit issued under ~~pursuant to~~ s. 320.0848.

Section 10. Subsection (5) is added to section 320.084, Florida Statutes, to read:

320.084 Free motor vehicle license plate to certain disabled veterans.—


(5) A county or municipality, or any agency thereof, may not impose upon any person who is issued a "DV" motor vehicle license plate, or a license plate with the international accessibility symbol, under this section any fee or penalty for parking in any metered or timed parking space except:

(a) As provided in s. 316.1964, or

(b) When the person is parked without a permit issued under s. 320.0848 in a space designated for use by persons who have disabilities.

Section 11. Section 320.0842, Florida Statutes, is amended to read:

320.0842 Free motor vehicle license plates to veterans who use ~~con-~~ fined to wheelchairs.—

(1) Upon application by any person who owns or leases a motor vehicle and who is qualified under subsection (2), the department shall issue to such person a free motor vehicle license plate, similar in all respects to the plate issued under s. 320.084, with the exception that the designation "DV" ~~is shall be replaced by the international a-series designation which shall be the internationally accepted wheelchair symbol of accessibility. The international internationally accepted wheelchair symbol of accessibility is as follows:~~ 

(2) In order to be eligible for the motor vehicle license plate described in subsection (1), a person must comply with the following provisions:

(a) The veteran must be eligible for the license plate issued under s. 320.084 and must apply for the license plate issued under this section in lieu of or in exchange for the motor vehicle license number plate authorized by s. 320.084; and

(b) The veteran must offer, in addition to the proof required by s. 320.084(1), proof that due to a service-connected disability he or she ~~permanently uses a wheelchair is a paraplegic.~~

(3) Upon request, the department shall issue, to a person who has received a motor vehicle license plate under subsection (2), a designation plate containing only the ~~international internationally accepted wheelchair symbol of accessibility~~, to be displayed on the front of a vehicle.

(4) ~~No county or municipality, or any agency thereof, may exact from any person who is issued a designated "DV" license plate under s. 320.084 or a license plate bearing the internationally accepted wheelchair symbol under this section any fee for parking on the roads of this state or in any metered parking space.~~

(5) ~~No penalty for parking on the roads of this state or in a metered space, except in a clearly defined bus loading zone or an area posted as a "NO PARKING" zone, may be imposed upon any person who is issued a designated "DV" license plate under s. 320.084 or a license plate bearing the internationally accepted wheelchair symbol under this section.~~

(4)(6) ~~The provisions of Subsections (3) and (4) of s. 320.084 apply to license plates issued under this section.~~

Section 12. Section 320.0848, Florida Statutes, is amended to read:

320.0848 ~~Disabled Persons who have disabilities;~~ issuance of disabled ~~exemption~~ parking permits; temporary permits; permits for certain providers of transportation services to persons who have ~~with~~ disabilities.—

(1)(a) The Department of Highway Safety and Motor Vehicles or its authorized agents shall, upon application ~~and receipt of the fee~~, issue a disabled ~~an exemption~~ parking permit for a period that ends on the renewal date for that person's driver's license or identification card ~~of 4 years to any person who has permanent mobility problems, or a temporary disabled exemption parking permit not to exceed 1 year 90 days to any person who has with temporary mobility problems, together with an identification card. The application for a disabled parking permit must contain the name and motor vehicle policy number of the applicant's primary insurance carrier, whom the department may notify upon granting a disabled parking permit. The person must Such persons with disabilities shall be currently certified by a physician licensed under chapter 458, chapter 459, or chapter 460, or by a podiatrist licensed under chapter 461, or comparable licensing in another state, by the Division of Blind Services of the Department of Labor and Employment Security, or by the Adjudication Office of the United States Department of Veterans Affairs or its predecessor as being legally blind or as having any of the following disabilities that limit or impair his or her ability to walk or who is certified as legally blind:~~

1. Inability to walk 200 feet without stopping to rest.

2. Inability to walk without the use of or assistance from a brace, cane, crutch, prosthetic device, or other assistive device, or without the assistance of another person. If the assistive device significantly restores the person's ability to walk to the extent that the person can walk without severe limitation, the person is not eligible for the exemption parking permit.

3. The need to permanently ~~use~~ use a wheelchair.

4. Restriction by lung disease to the extent that the person's forced (respiratory) expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or the person's arterial oxygen is less than 60 mm/hg on room air at rest.

5. Use of portable oxygen.

6. Restriction by cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association.

7. Severe limitation in the person's ability to walk due to an arthritic, neurological, or orthopedic condition.

(b) The certificate of disability ~~must~~ *shall* include, but need not be limited to:

1. The disability of the applicant; the certifying physician's name and address; the physician's certification number; the eligibility criteria for the permit; the penalty for falsification by either the certifying physician or the applicant; ~~and~~ the duration of the condition that entitles the person to the permit; *and justification for the additional placard pursuant to s. 320.0848(2).*

2. *The statement, in bold letters: "A disabled parking permit may be issued only for a medical necessity that severely affects mobility."*

3.2. ~~The signatures of: certificate of disability shall be signed by both~~

a. ~~The applicant's physician; and~~

b. ~~The applicant or the applicant's parent or guardian; and-~~

c. *The employee of the department's authorized agent which employee is processing the application.*

(c) The Department of Highway Safety and Motor Vehicles shall renew, ~~for a period of 4 years, the disabled exemption parking permit of any person who has a disability with disabilities upon presentation of the certification required by paragraph (b), for the period that coincides with the period of the person's driver's license or identification card or the identification card issued by the department with the previous permit together with proper identification and an affidavit of the department signed by the applicant which attests to the applicant's continued disability.~~

(d) The Department of Highway Safety and Motor Vehicles shall, *in consultation with the Transportation Disadvantaged Commission, adopt promulgate rules, in accordance with chapter 120, for the issuance of a disabled exemption parking permit to any organization that which can adequately demonstrate a bona fide need for such a permit because the organization provides regular transportation services to persons who have with disabilities and who are certified as provided in paragraph (a).*

(e) *The Agency for Health Care Administration shall adopt rules in order to certify physicians who are licensed in Alabama or Georgia and maintain an office for the practice of medicine, chiropractic medicine, or podiatric medicine within 50 miles of the border of this state. A physician who is certified by the Agency for Health Care Administration may sign the certificate of disability for a resident of this state who is under the care of that physician. The agency shall permanently revoke such certification of any physician who signs a certificate of disability for a person who does not meet the requirements of subsection (1).*

## (2) DISABLED EXEMPTION PARKING PERMIT; PERSONS WITH PERMANENT MOBILITY PROBLEMS.—

(a) ~~The disabled exemption parking permit is shall be a placard that can be placed in a motor vehicle so as to be visible from the front and rear of the vehicle and shall be renewed every 4 years in the birth month of the applicant. Each side of the placard must shall have the international symbol of accessibility access in a contrasting color in the center so as to be visible, and the expiration date, and shall be suitable for display on a dashboard or from a rearview mirror. One side of the placard must display the applicant's driver's license number or state identification card number along with a warning that the applicant must have such identification at all times while using the parking permit. A validation sticker must also be issued with each disabled parking permit, showing the year of expiration and the holder's birth month on each side of the placard. Validation stickers must be of the size specified by the Department of Highway Safety and Motor Vehicles and must be affixed to the disabled parking permits. The disabled parking permits must use the same colors as license plate validations.~~

(b) License plates issued ~~under pursuant to ss. 320.084, 320.0842, 320.0843, and 320.0845 are shall be valid for the same parking privileges and other privileges provided for under ss. 316.1955, 316.1964 316.1956, and 526.141(5)(a).~~

(c)(1). *Except as provided in subparagraph 2., the fee for a disabled parking permit shall be:*

a. *\$22.50 for the initial 6-year permit or renewal permit, of which the State Transportation Trust Fund shall receive \$20.25 and the tax collector of the county in which the fee was collected shall receive \$2.25.*

b. *\$1.50 for each additional or additional renewal 6-year permit, of which the State Transportation Trust Fund shall receive all funds collected.*

c. *\$15 for each initial 4-year permit or renewal permit, of which the State Transportation Trust Fund shall receive \$13.50 and the tax collector of the county in which the fee was collected shall receive \$1.50.*

d. *\$1 for each additional or additional renewal 4-year permit, of which the State Transportation Trust Fund shall receive all funds collected.*

*The department shall not issue an additional disabled parking permit unless the applicant states that they are a frequent traveler or a quadriplegic.*

~~(e)1. Except as provided in subparagraph 2., the fees for the exemption parking permit and renewal are \$15 for the initial parking permit, \$1 for each additional parking permit, \$15 for each renewal parking permit, and \$1 for each additional renewal parking permit. The Department of Highway Safety and Motor Vehicles shall receive \$13.50 from the moneys derived from the proceeds of the initial exemption parking permit fee and \$13.50 from the moneys derived from the proceeds of the renewal fee therefor, and the tax collector of the county in which the fee was generated shall receive \$1.50 from each such fee, to defray the expenses of administering this section.~~

2. If an applicant who is a disabled veteran, is a resident of this state, has been honorably discharged, and either has been determined by the Department of Defense or the Veterans Administration of the Federal Government to have a service-connected disability rating for compensation of 50 percent or greater or has been determined to have a service-connected disability rating of 50 percent or greater and is in receipt of both disability retirement pay from the Veterans Administration and has a signed physician's statement of qualification for the disabled handicapped parking permits, *the fee for a disabled parking permit shall be:*

a. *\$2.25 for the initial 6-year permit or renewal permit.*

b. *\$1.50 for the additional or additional renewal 6-year permit.*

c. *\$1.50 for the initial 4-year permit or renewal permit.*

d. *\$1 for each additional or additional renewal 4-year permit. The tax collector of the county in which the fee was collected shall retain all funds received pursuant to this subparagraph.*

3. If an applicant presents to the department a statement from the Federal Government or the State of Florida indicating the applicant is a recipient of Supplement Security Income the fee for the disabled parking permit shall be:

a. *\$12.75 for the initial 6-year permit or renewal permit, of which the State Transportation Trust Fund shall receive \$10.15 and the tax collector of the county in which the fee was collected shall receive \$2.60.*

b. *\$9 for the initial 4-year permit or renewal permit, of which the State Transportation Trust Fund shall receive \$6.75 and the tax collector of the county in which the fee was collected shall receive \$2.25. the fees are \$1.50 for the initial parking permit, \$1 for each additional parking permit, \$1.50 for each renewal parking, and \$1 for each additional renewal parking permit. The fee must be paid to the tax collector of the county in which the fee was generated.*

The department may ~~shall~~ not issue to any one eligible applicant more than two disabled exemption parking permits except to an organization in accordance with paragraph (1)(d) *upon request of the applicant. The provisions of Subsections (1), (4), (5), and (6), and (7) shall apply to this subsection.*

## (3) DISABLED EXEMPTION PARKING PERMIT; TEMPORARY.—

(a) *The temporary disabled parking permit is a placard of a different color from the color of the permanent disabled parking permit placard, and must clearly display the date of expiration, but is in all other respects identical to the permanent disabled parking permit placard. The temporary disabled parking permit placard must be designed to conspicuously display the expiration date of the permit on the front and back of the placard.*



(b) The department shall issue the temporary disabled parking permit for the period of the disability as stated by the certifying physician but not to exceed 1 year.

(a) ~~A person desiring a temporary exemption parking permit shall apply to the tax collector in his or her county of residence on a form furnished by the Department of Highway Safety and Motor Vehicles.~~

(c)(b) ~~The application form shall be accompanied by a fee for a temporary disabled parking permit is in the amount of \$15. Such fee shall be distributed as follows:~~

1. ~~To the tax collector for processing: \$2.50.~~

2. ~~To the Department of Highway Safety and Motor Vehicles: \$3.50. Such fee shall be deposited into the Highway Safety Operating Trust Fund to be used for implementation of a real-time handicapped parking database and replacement parking permit program and for operations of the department.~~

3. ~~To the Florida Governor's Alliance for the Employment of Disabled Citizens for the purpose of improving employment and training opportunities of persons with disabilities, with special emphasis on removing transportation barriers: \$4. Such fees shall be deposited into the Transportation Disadvantaged Trust Fund for transfer to the Florida Governor's Alliance for the Employment of Disabled Citizens.~~

4. ~~To the Transportation Disadvantaged Trust Fund for the purpose of funding matching grants to counties for the purpose of improving transportation of persons with disabilities: \$5.~~

(4) *From the proceeds of the temporary disabled parking permit fees:*

(a) *The Department of Highway Safety and Motor Vehicles must receive \$3.50 for each temporary permit, to be deposited into the Highway Safety Operating Trust Fund and used for implementing the real-time disabled parking permit data base and for administering the disabled parking permit program.*

(b) *The tax collector, for processing, must receive \$2.50 for each temporary permit.*

(c) *The remainder must be distributed monthly as follows:*

1. *To the Florida Governor's Alliance for the Employment of Disabled Citizens for the purpose of improving employment and training opportunities for persons who have disabilities, with special emphasis on removing transportation barriers, \$4. These fees must be deposited into the Transportation Disadvantaged Trust Fund for transfer to the Florida Governor's Alliance for Employment of Disabled Citizens.*

2. *To the Transportation Disadvantaged Trust Fund to be used for funding matching grants to counties for the purpose of improving transportation of persons who have disabilities, \$5.*

(5) *The applications for disabled parking permits and temporary disabled parking permits are official state documents. The following statement must appear on each application form immediately below the physician's signature and immediately below the applicant's signature: "Knowingly providing false information on this application is a misdemeanor of the first degree, punishable as provided in s. 775.082, Florida Statutes, or s. 775.083, Florida Statutes. The penalty is up to 1 year in jail or a fine of \$1,000, or both."*

(4) ~~Any county or municipality may designate additional parking spaces for use for persons with disabilities, beyond the number required by s. 316.1955, to accommodate increased demand for such spaces.~~

(6)(5) Any person who knowingly makes a false or misleading statement in an application or certification under this section commits a misdemeanor of the first ~~second~~ degree, punishable as provided in s. 775.082 or s. 775.083.

(7)(6) Any person who fraudulently obtains or unlawfully uses such a disabled ~~an exemption~~ parking permit or who uses an unauthorized replica of such a disabled ~~exemption~~ parking permit with the intent to deceive is guilty of a misdemeanor of the second degree ~~nonmoving traffic violation~~, punishable as provided in s. 775.082 or s. 775.083 ~~ss. 316.008(4) and 318.18(7).~~

(8) A law enforcement officer may confiscate the disabled parking permit from any person who fraudulently obtains and uses such a permit.

(9)(7) A violation of this section is ~~shall be~~ grounds for disciplinary action under ~~pursuant to~~ s. 458.331, s. 459.015, s. 460.413, or s. 461.013, as applicable.

(10)(8) The Department of Highway Safety and Motor Vehicles shall adopt rules to ~~administer~~ ~~implement~~ this section.

Section 13. Subsection (1) of section 322.051, Florida Statutes, is amended to read:

322.051 Identification cards. —

(1) Any person who is 12 years of age or older, or any person who has a disability, regardless of age, who applies for a disabled parking permit under s. 320.0848, may be issued an identification card by the department upon completion of an application and payment of an application fee. The application ~~must~~ ~~shall~~ include the applicant's full name (first, middle or maiden, and last), sex, race, residence address and mailing address, proof of birth satisfactory to the department, and other data ~~that the department requires~~ ~~may require~~. ~~An application~~ ~~Applications~~ for an identification card ~~must~~ ~~cards~~ ~~shall~~ be signed and verified by the applicant before a person authorized to administer oaths. The fee for an identification card ~~is~~ ~~shall be~~ \$3, including payment for the color photograph or digital image of the applicant.

Section 14. Section 553.505, Florida Statutes, is amended to read:

553.505 Exceptions to applicability of the Americans with Disabilities Act. — Notwithstanding ~~any provision of~~ the Americans with Disabilities Act of 1990, churches and private clubs ~~are~~ ~~shall be~~ governed by the requirements of ss. 553.501-553.513. Parking spaces, parking lots, and other parking facilities ~~are~~ ~~shall be~~ governed by s. 316.1955 ~~the requirements of s. 316.1956.~~

Section 15. Each person who has been issued a disabled parking permit for a person who has a disability under section 320.0848, Florida Statutes, which permit is in effect on October 1, 1996, must renew that permit no later than April 1, 1998, subject to a schedule to be set by the Department of Highway Safety and Motor Vehicles, or that permit will expire April 1, 1998. If the permit renewal is within 24 months of the driver's license or state identification card renewal date, then the permit is valid to the subsequent driver's license or state identification renewal notice.

Section 16. The requirements of this act which impose a financial burden on local governments fulfill an important state interest.

Section 17. Section 316.1956, Florida Statutes, is repealed.

Section 18. This act shall take effect October 1, 1996.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to parking for persons who have disabilities; amending s. 316.008, F.S., relating to powers of local authorities; deleting a cross-reference and revising terminology to conform to the act; amending s. 316.1955, F.S.; revising the requirements for providing parking spaces for certain persons who have disabilities; providing specifications for such parking spaces; providing for leased parking; providing for accessible routes; providing a deadline by which parking facilities must alter existing parking spaces; amending s. 316.1957, F.S.; providing for reduced penalties for violations in specified circumstances; amending s. 316.1958, F.S.; providing for reciprocal recognition of out-of-state license plates or permits, except in lieu of a required Florida driver's license; amending s. 316.1964, F.S.; providing restrictions on free parking in specified parking spaces; amending s. 316.1967, F.S., relating to liability for payment of parking ticket violations and other parking violations; deleting a cross-reference to conform to the act; amending s. 318.14, F.S.; providing that community-service requirements are not waived by a plea of nolo contendere or the withholding of adjudication; amending s. 318.18, F.S.; providing additional civil penalties for certain violations; amending s. 320.08035, F.S., relating to small license plates; deleting a cross-reference to conform to the act; amending s. 320.084, F.S.; exempting veterans who have disabilities from certain parking fees or penalties; providing exceptions; amending s. 320.0842, F.S.; providing



for an international symbol of accessibility; amending s. 320.0848, F.S.; providing for the issuance of disabled parking permits that are valid until the renewal date of the applicant's driver's license or identification card or for a prescribed period of time; providing for temporary permits to be issued; providing for rule adoption in order to certify physicians in Alabama or Georgia who practice within 50 miles of this state and who certify persons for purposes of a disabled parking permit; requiring the driver's license or state identification number to be displayed on the placard and such identification to be in the possession of the placard holder; providing for the issuance of an additional disabled parking permit; providing for fees and a hardship exemption; providing for the distribution of fees; declaring application forms for a disabled parking permit to be "official state documents"; providing increased criminal penalties for supplying false information; providing a criminal penalty for fraudulently obtaining or for using a disabled parking permit or an unauthorized replica of such a permit; amending s. 322.051, F.S.; authorizing any person who has a disability to apply for a state identification card in conjunction with obtaining a disabled parking permit; amending s. 553.505, F.S., relating to exceptions to the Americans with Disabilities Act; revising a cross-reference to conform to changes in the act; requiring renewal of disabled parking permits issued under s. 320.0848, F.S.; providing that certain requirements of this act fulfill an important state interest; repealing s. 316.1956, F.S., which provides for parking spaces by certain entities; providing an effective date.

Senators Forman and Gutman offered the following amendments to **Amendment 5** which were moved by Senator Forman and adopted:

**Amendment 5A**—On page 9, lines 15-30, delete those lines and insert:

(1) ~~When~~ ~~Whenever~~ evidence is ~~shall be~~ presented in any court of the fact that any ~~motor automobile, truck, or other~~ vehicle was ~~found to be~~ parked in a properly designated ~~handicapped~~ parking space ~~for persons who have disabilities in violation of the provisions of s. 316.1955 or s. 316.1956, it is~~ ~~shall be~~ prima facie evidence that the vehicle was parked and left in the space by the person, firm, or corporation in whose name the vehicle is registered and licensed according to the records of the Division of Motor Vehicles.

**Amendment 5B**—On page 16, lines 9-11, delete those lines

**Amendment 5C**—On page 9, line 2, after "320.0848" insert: (1)(d)

**Amendment 5D**—On page 8, line 21, delete "must" and insert: may

Senator Forman moved the following amendment to **Amendment 5** which was adopted:

**Amendment 5E**—On page 21, lines 23-31 and on page 22, lines 1 and 2, delete all of those lines

**Amendment 5** as amended was adopted.

On motion by Senator Forman, by two-thirds vote **CS for CS for SB 310** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37      Nays—None

**SB 792**—A bill to be entitled An act relating to juvenile justice; amending s. 39.01, F.S.; revising definitions; deleting a limitation on the age at which a child is eligible for commitment to an intensive residential treatment program; revising the criteria under which a child is committed to an intensive residential treatment program; providing for a serious habitual juvenile offender to be committed to a high-risk residential program rather than a maximum-risk residential program; revising the criteria under which a child is classified as a serious or habitual juvenile offender; amending s. 39.0581, F.S.; lowering the age at which a child is eligible for commitment to a maximum-risk residential program; revising the criteria under which a child is committed to a maximum-risk residential program; amending ss. 39.022, 39.0582, 39.0583, 39.0584, F.S.; redesignating the intensive residential treatment program for 10-13 year old offenders as the intensive residential treatment program for offenders less than 13 years of age; providing an effective date.

—was read the second time by title.

The Committee on Criminal Justice recommended the following amendment which was moved by Senator Bankhead and failed:

**Amendment 1**—On page 7, lines 12-14, delete those lines and insert: ~~nonrelated capital felonies, life~~

The Committee on Health and Rehabilitative Services recommended the following amendment which was moved by Senator Bankhead and failed:

**Amendment 2**—On page 13, between lines 28 and 29, insert:

(e) *The department shall establish quality assurance standards to ensure the quality and substance of mental health services provided to children who are committed to intensive residential treatment and to ensure that all personnel providing such services meet certification and professional licensing requirements.*

Senator Bankhead moved the following amendment which was adopted:

**Amendment 3 (with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Effective July 1, 1996, section 39.003, Florida Statutes, is amended to read:

39.003 Juvenile Justice Advisory Board.—

(1) The Juvenile Justice Advisory Board shall be composed of nine members. Members of the board shall have direct experience and a strong interest in juvenile justice issues. The authority to appoint the board is allocated as follows ~~shall consist of~~:

(a) ~~Three~~ ~~Seven~~ members appointed by the Governor.

(b) ~~Three~~ ~~members~~ ~~One member~~ appointed by the President of the Senate.

(c) ~~Three~~ ~~members~~ ~~One member~~ appointed by the Speaker of the House of Representatives.

(2)(a) *A full term shall be 3 years, and the term for each seat on the board commences on October 1 and expires on September 30, without regard to the date of appointment. Each appointing authority shall appoint a member to fill one of the three vacancies that occurs with the expiration of terms on September 30 of each year. Each appointment shall be for a 3-year term, except that, of the initial appointments, three members shall be appointed to a 1-year term, three members shall be appointed to a 2-year term, and three members shall be appointed to a 3-year term. The initial appointments of the President of the Senate and the Speaker of the House of Representatives shall be for a 2-year term. A member is not eligible for appointment to more than two full, consecutive terms. A vacancy on the board shall be filled within 60 days after the date on which the vacancy occurs. The appointing authority that made the original appointment shall make the appointment to fill a vacancy that occurs for any reason other than the expiration of a term, and the appointment shall be for the remainder of the unexpired term.*

(b) The board shall annually select a chairperson from among its members.

(c) The board shall meet at least once each quarter. A member may not authorize a designee to attend a meeting of the board in place of the member. ~~Failure by~~ ~~A member who fails to attend two consecutive~~ regularly scheduled ~~and consecutive~~ meetings of the board, ~~creates a vacancy on the board unless the member is excused by the chairperson, shall be deemed to have abandoned the position, and the position shall be declared vacant by the board.~~

(3)(a) The board members shall serve without compensation, but are entitled to reimbursement for per diem and travel expenses pursuant to s. 112.061.

(b) The board shall appoint a staff director and other personnel who are exempt from part II of chapter 110, relating to the Career Service System.

(c) ~~The board is assigned, for the purpose of general oversight administrative purposes, to the Joint Legislative Auditing Committee Executive Office of the Governor. The Executive Office of the Governor and each state agency shall provide assistance when requested by the board. The board shall develop a budget pursuant to procedures established by the Joint Legislative Auditing Committee chapter 216. The budget shall be submitted directly to the Governor.~~

(d) The composition of the board shall be broadly reflective of the public and shall include minorities and women. The term "minorities" as used in this paragraph means a member of a socially or economically disadvantaged group that includes African-Americans, Hispanics, and American Indians. *Members of the board shall have direct experience and a strong interest in juvenile justice issues.*

(4) The board shall:

(a) Review and recommend programmatic and fiscal policies governing the operation of programs, services, and facilities for which the Department of Juvenile Justice is responsible.

(b) Monitor the development and implementation of long-range juvenile justice policies, including prevention, early intervention, diversion, adjudication, and commitment.

(c) Monitor all activities of the executive and judicial branch and their effectiveness in implementing policies pursuant to parts II and IV of this chapter.

(d) Establish and operate a comprehensive system to annually measure and report program outcome and effectiveness for each program operated by the Department of Juvenile Justice or operated by a provider under contract with the department. The board shall use its evaluation research to make advisory recommendations to the ~~department and report to the Legislature, the Governor, and the department~~ concerning the effectiveness and future funding priorities of juvenile justice programs. ~~The evaluation shall be advisory only.~~

(e) Advise the ~~Department of Juvenile Justice, the President of the Senate, the Speaker of the House of Representatives, and the Governor, and the department~~ on matters relating to parts II and IV of this chapter. ~~The board shall submit an annual report to the President of the Senate, the Speaker of the House of Representatives, and the Governor, by no later than February 15 of each calendar year, summarizing the activities and reports of the board for the preceding year, and any recommendations of the board for the following year.~~

(f) Serve as a clearinghouse to provide information and assistance to the district juvenile justice boards and county juvenile justice councils.

(g) Hold public hearings and inform the public of activities of the board and of the Department of Juvenile Justice, as appropriate.

(h) Monitor the delivery and use of services, programs, or facilities operated, funded, regulated, or licensed by the Department of Juvenile Justice for juvenile offenders or alleged juvenile offenders, and for prevention, diversion, or early intervention of delinquency, and to develop programs to educate the citizenry about such services, programs, and facilities and about the need and procedure for siting new facilities.

(i) Contract for consultants as necessary and appropriate. The board may apply for and receive grants for the purposes of conducting research and evaluation activities.

(j) Conduct such other activities as the board may determine are necessary and appropriate to monitor the effectiveness of the delivery of juvenile justice programs and services under parts II and IV of this chapter.

(k) *The board shall submit an annual report to the President of the Senate, the Speaker of the House of Representatives, the Governor, and the secretary of the department not later than February 15 of each calendar year, summarizing the activities and reports of the board for the preceding year, and any recommendations of the board for the following year.*

(5) *Each state agency shall provide assistance when requested by the board. The board shall have access to all records, files, and reports that are material to its duties and that are in the custody of a school board,*

a law enforcement agency, a state attorney, a public defender, the court, the Department of Health and Rehabilitative Services, and the department.

Section 2. Subsection (11), paragraph (e) of subsection (59), and subsection (62) of section 39.01, Florida Statutes, are amended to read:

39.01 Definitions.—When used in this chapter:

(11) *"Child eligible for an intensive residential treatment program for offenders less than 13 years of age" means a child who has been found to have committed a delinquent act or a violation of law in the case currently before the court and who meets at least one of the following criteria:*

(a) *The child is less than 13 years of age at the time of the disposition for the current offense and has been adjudicated on the current offense for:*

1. Arson;
2. Sexual battery;
3. Robbery;
4. Kidnapping;
5. Aggravated child abuse;
6. Aggravated assault;
7. Aggravated stalking;
8. Murder;
9. Manslaughter;
10. Unlawful throwing, placing, or discharging of a destructive device or bomb;
11. Armed burglary;
12. Aggravated battery;
13. Lewd or lascivious assault or act in the presence of a child; or
14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony.

(b) *The child is less than 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed at least once to a delinquency commitment program.*

(c) *The child is less than 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement.*

~~(11) "Child eligible for an intensive residential treatment program for 10-year-old to 13-year-old offenders" means a child who may have a behavioral disturbance but has not been found to be severely emotionally disturbed by an official access diagnosis and who has been found to have committed a delinquent act or a violation of law in the case currently before the court, and who meets at least one of the following criteria:~~

~~(a) Is no less than 10 years of age and no greater than 13 years of age and the current offense is a capital or life felony.~~

~~(b) Is no less than 10 years of age and no greater than 13 years of age and the current offense is a first or second degree felony offense, involving the infliction of serious physical harm to another person and has previously been found to have committed at least one capital, life, first, or second degree felony offense.~~

~~(c) Is no less than 10 years of age and no greater than 13 years of age and the current offense is any felony, and the child has previously been found to have committed at least three separate, nonrelated, felony offenses resulting in at least one residential commitment.~~

~~(d) The child was less than 14 years of age at the time of the current offense and has been convicted in a criminal court or has had adjudication withheld pursuant to s. 39.059, and otherwise meets the criteria.~~

(59) "Restrictiveness level" means the level of custody provided by programs that service the custody and care needs of committed children. There shall be five restrictiveness levels:

(e) Maximum-risk residential.—Youth assessed and classified for this level of placement require close supervision in a maximum security residential setting that provides 24-hour-per-day secure custody, care, and supervision. Placement in a program in this level is prompted by a demonstrated need to protect the public. Programs or program models in this level are maximum-secure-custody, long-term residential commitment facilities that are intended to provide a moderate overlay of educational, vocational, and behavioral-modification services. *Section 39.061 applies to children placed in programs in this restrictiveness level and include programs for serious and habitual juvenile offenders and other maximum security program models authorized by the Legislature and established by rule.*

(62) "Serious or habitual juvenile offender," for purposes of commitment to a residential facility and for purposes of records retention, means a child who has been found to have committed a delinquent act or a violation of law, in the case currently before the court, and who meets at least one of the following criteria:

(a) The youth is at least 13 years of age at the time of the disposition for the current offense and has been adjudicated on the current offense for:

1. Arson;
2. Sexual battery;
3. Robbery;
4. Kidnapping;
5. Aggravated child abuse;
6. Aggravated assault;
7. Aggravated stalking;
8. Murder;
9. Manslaughter;
10. Unlawful throwing, placing, or discharging of a destructive device or bomb;
11. Armed burglary;
12. Aggravated battery;
13. Lewd or lascivious assault or act in the presence of a child; or
14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony.

(b) The youth is at least 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed at least two times to a delinquency commitment program.

(c) The youth is at least 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement.

~~(62) "Serious or habitual juvenile offender," for purposes of commitment to a residential facility and for purposes of records retention, means a child who has been found to have committed a delinquent act or a violation of law, in the case currently before the court, and who meets at least one of the following criteria:~~

~~(a) Was no less than 14 years of age at the time of disposition for the current offense and has been adjudicated or had adjudication withheld on the current offense for a capital felony, a life felony, or a first degree felony involving the infliction or threatened infliction of serious physical harm to another person.~~

~~(b) Was no less than 14 years of age at the time of disposition for the current offense and has been adjudicated or had adjudication withheld on the current offense for a capital felony, a life felony, a first degree~~

~~felony, or a second degree felony, and the child has previously been adjudicated or had adjudication withheld for at least two separate, non-related capital felonies, life felonies, first degree felonies, or second degree felonies, other than second degree felony violations of chapter 803 or third degree felonies involving the use of a weapon, within the preceding 24 months, and at least one of those adjudications, or the withholding of at least one of those adjudications, resulted in placement of the child in a residential commitment program of a moderate-risk restrictiveness level or greater.~~

~~(c) Was not less than 14 years of age at the time of disposition for the current offense, which may include any felony, and the child has previously been adjudicated or had adjudication withheld for at least three separate, nonrelated felony offenses within the preceding 36 months, and at least one of those adjudications, or the withholding of at least one of those adjudications, resulted in placement of the child in a residential commitment program of a moderate-risk restrictiveness level or greater.~~

~~(d) Was not less than 14 years of age at the time of disposition of the current offense, which may include any felony, and the child has previously been committed to an early delinquency intervention program as provided in s. 39.055 and a boot camp program as provided in s. 39.057.~~

~~(e) Was less than 18 years of age at the time of the commission of the current offense and has been convicted in a criminal court or has had adjudication withheld pursuant to s. 39.059, and otherwise meets the criteria.~~

Section 3. For the purpose of incorporating the amendment to section 39.01, Florida Statutes, in references thereto, the sections or subdivisions of Florida Statutes set forth below are reenacted to read:

39.052 Hearings.—

(3) TRANSFER OF A CHILD FOR PROSECUTION AS AN ADULT.—

(a1). The court shall transfer and certify a child's criminal case for trial as an adult if the child is alleged to have committed a violation of law and, prior to the commencement of an adjudicatory hearing, the child, joined by a parent or, in the absence of a parent, by the guardian or guardian ad litem, demands in writing to be tried as an adult. Once a child has been transferred for criminal prosecution pursuant to a voluntary waiver hearing and has been found to have committed the presenting offense or a lesser included offense, the child shall be handled thereafter in every respect as an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 39.059(4)(b) or (c).

2.a. The state attorney may file a motion requesting the court to transfer the child for criminal prosecution if the child was 14 years of age or older at the time the alleged delinquent act or violation of law was committed. If the child has been previously adjudicated delinquent for murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, or aggravated assault, and is currently charged with a second or subsequent violent crime against a person, the state attorney shall file a motion requesting the court to transfer and certify the juvenile for prosecution as an adult, or proceed pursuant to subparagraph 5.

b. If the child was 14 years of age or older at the time of commission of a fourth or subsequent alleged felony offense and the child was previously adjudicated delinquent or had adjudication withheld for or was found to have committed, or to have attempted or conspired to commit, three offenses that are felony offenses if committed by an adult, and one or more of such felony offenses involved the use or possession of a firearm or violence against a person, the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such request, or proceed pursuant to subparagraph 5. Upon the state attorney's request, the court shall either enter an order transferring the case and certifying the case for trial as if the child were an adult or provide written reasons for not issuing such an order.

3. If the court finds, after a waiver hearing under subsection (2), that a juvenile who was 14 years of age or older at the time the alleged violation of state law was committed should be charged and tried as an adult, the court shall enter an order transferring the case and certifying the case for trial as if the child were an adult. The child shall thereafter

be subject to prosecution, trial, and sentencing as if the child were an adult but subject to the provisions of s. 39.059(7). Once a child has been transferred for criminal prosecution pursuant to an involuntary waiver hearing and has been found to have committed the presenting offense or a lesser included offense, the child shall thereafter be handled in every respect as an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 39.059(4)(b) or (c).

4.a. A child of any age who is charged with a violation of state law punishable by death or by life imprisonment is subject to the jurisdiction of the court as set forth in s. 39.049(7) unless and until an indictment on the charge is returned by the grand jury. When such indictment is returned, the petition for delinquency, if any, must be dismissed and the child must be tried and handled in every respect as an adult:

(I) On the offense punishable by death or by life imprisonment; and

(II) On all other felonies or misdemeanors charged in the indictment which are based on the same act or transaction as the offense punishable by death or by life imprisonment or on one or more acts or transactions connected with the offense punishable by death or by life imprisonment.

b. An adjudicatory hearing may not be held until 21 days after the child is taken into custody and charged with having committed an offense punishable by death or by life imprisonment, unless the state attorney advises the court in writing that he or she does not intend to present the case to the grand jury, or has presented the case to the grand jury and the grand jury has not returned an indictment. If the court receives such a notice from the state attorney, or if the grand jury fails to act within the 21-day period, the court may proceed as otherwise authorized under this part.

c. If the child is found to have committed the offense punishable by death or by life imprisonment, the child shall be sentenced as an adult. If the juvenile is not found to have committed the indictable offense but is found to have committed a lesser included offense or any other offense for which he or she was indicted as a part of the criminal episode, the court may sentence as follows:

(I) Pursuant to s. 39.059;

(II) Pursuant to chapter 958, notwithstanding any other provisions of that chapter to the contrary; or

(III) As an adult, pursuant to s. 39.059(7)(c).

d. Once a child has been indicted pursuant to this subsection and has been found to have committed any offense for which he or she was indicted as a part of the criminal episode, the child shall be handled thereafter in every respect as if an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 39.059.

5.a. Effective January 1, 1995, with respect to any child who was 14 or 15 years of age at the time the alleged offense was committed, the state attorney may file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed and when the offense charged is:

- (I) Arson;
- (II) Sexual battery;
- (III) Robbery;
- (IV) Kidnapping;
- (V) Aggravated child abuse;
- (VI) Aggravated assault;
- (VII) Aggravated stalking;
- (VIII) Murder;
- (IX) Manslaughter;
- (X) Unlawful throwing, placing, or discharging of a destructive device or bomb;
- (XI) Armed burglary;
- (XII) Aggravated battery;
- (XIII) Lewd or lascivious assault or act in the presence of a child; or
- (XIV) Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony.

b. With respect to any child who was 16 or 17 years of age at the time the alleged offense was committed, the state attorney:

(I) May file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed. However, the state attorney may not file an information on a child charged with a misdemeanor, unless the child has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which involved an offense classified as a felony under state law.

(II) Shall file an information if the child has been previously adjudicated delinquent for murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, or aggravated assault, and is currently charged with a second or subsequent violent crime against a person.

c. Effective January 1, 1995, notwithstanding subparagraphs 1. and 2., regardless of the child's age at the time the alleged offense was committed, the state attorney must file an information with respect to any child who previously has been adjudicated for offenses which, if committed by an adult, would be felonies and such adjudications occurred at three or more separate delinquency adjudicatory hearings, and three of which resulted in residential commitments as defined in s. 39.01(59).

d. Once a child has been transferred for criminal prosecution pursuant to information and has been found to have committed the presenting offense or a lesser included offense, the child shall be handled thereafter in every respect as if an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 39.059(6).

e. Each state attorney shall develop and annually update written policies and guidelines to govern determinations for filing an information on a juvenile, to be submitted to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Juvenile Justice Advisory Board not later than January 1 of each year.

(6) **PLACEMENT OF A SERIOUS OR HABITUAL JUVENILE OFFENDER.**—Following a delinquency adjudicatory hearing pursuant to subsection (1) and a delinquency disposition hearing pursuant to subsection (3) which results in a commitment determination, the court shall, on its own or upon request by the state or the department, determine whether the protection of the public requires that the child be placed in a program for serious or habitual juvenile offenders and whether the particular needs of the child would be best served by a program for serious or habitual juvenile offenders as provided in s. 39.058. The determination shall be made pursuant to s. 39.01(62) and paragraph (3)(e).

39.058 Serious or habitual juvenile offender.—

(3) **PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.**—

(e) After a child has been adjudicated delinquent pursuant to s. 39.053(3), the court shall determine whether the child meets the criteria for a serious or habitual juvenile offender pursuant to s. 39.01(62). If the court determines that the child does not meet such criteria, the provisions of s. 39.054 shall apply.

39.061 Escapes from secure detention or residential commitment facility.—An escape from any secure detention facility maintained for the temporary detention of children, pending adjudication, disposition, or placement; an escape from any residential commitment facility defined in s. 39.01(59), maintained for the custody, treatment, punishment, or rehabilitation of children found to have committed delinquent acts or violations of law; or an escape from lawful transportation thereto or therefrom constitutes escape within the intent and meaning of s. 944.40 and is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

784.075 Battery on detention or commitment facility staff.—A person who commits a battery on an intake counselor or case manager, as defined in s. 39.01(34), on other staff of a detention center or facility as defined in s. 39.01(23), or on a staff member of a commitment facility as defined in s. 39.01(59)(c), (d), or (e), commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this section, a staff member of the facilities listed includes

persons employed by the Department of Juvenile Justice, persons employed at facilities licensed by the Department of Juvenile Justice, and persons employed at facilities operated under a contract with the Department of Juvenile Justice.

Section 4. Section 39.0517, Florida Statutes, is created to read:

39.0517 Incompetency in juvenile delinquency cases.—

(1) If, at any time prior to or during a delinquency case involving a delinquent act or violation of law that would be a felony if committed by an adult, the court has reason to believe that the child named in the petition may be incompetent to proceed with the hearing, the court on its own motion may, or on the motion of the child's attorney or state attorney must, stay all proceedings and order an evaluation of the child's mental condition.

(a) All determinations of competency shall be made at a hearing, with findings of fact based on an evaluation of the child's mental condition by not less than two nor more than three experts appointed by the court. If the determination of incompetency is based on the presence of a mental illness or mental retardation, this must be stated in the evaluation. In addition, a recommendation as to whether residential or nonresidential treatment or training is required must be included in the evaluation. All court orders determining incompetency must include specific findings by the court as to the nature of the incompetency.

(b) For incompetency evaluations related to mental illness, the Department of Health and Rehabilitative Services shall annually provide the courts with a list of mental health professionals who have completed a training program approved by the Department of Health and Rehabilitative Services to perform the evaluations.

(c) For incompetency evaluations related to mental retardation, the court shall order the Developmental Services Program Office within the Department of Health and Rehabilitative Services to examine the child to determine if the child meets the definition of "retardation" in s. 393.063 and, if so, whether the child is competent to proceed with delinquency proceedings.

(d) A child is competent to proceed if the child has sufficient present ability to consult with counsel with a reasonable degree of rational understanding and the child has a rational and factual understanding of the present proceedings. The report must address the child's capacity to:

1. Appreciate the charges or allegations against the child.
2. Appreciate the range and nature of possible penalties that may be imposed in the proceedings against the child, if applicable.
3. Understand the adversarial nature of the legal process.
4. Disclose to counsel facts pertinent to the proceedings at issue.
5. Display appropriate courtroom behavior.
6. Testify relevantly.

(2) Every child who is adjudicated incompetent to proceed may be involuntarily committed to the Department of Health and Rehabilitative Services for treatment upon a finding by the court of clear and convincing evidence that:

(a) The child is mentally ill and because of the mental illness; or the child is mentally retarded and because of the mental retardation:

1. The child is manifestly incapable of surviving with the help of willing and responsible family or friends, including available alternative services, and without treatment the child is likely to either suffer from neglect or refuse to care for self, and such neglect or refusal poses a real and present threat of substantial harm to the child's well-being; or

2. There is a substantial likelihood that in the near future the child will inflict serious bodily harm on self or others, as evidenced by recent behavior causing, attempting, or threatening such harm; and

(b) All available less restrictive alternatives, including treatment in community residential facilities or community inpatient or outpatient

settings which would offer an opportunity for improvement of the child's condition, are inappropriate.

(3) Each child who has been adjudicated incompetent to proceed and who meets the criteria for commitment in subsection (2), must be committed to the Department of Health and Rehabilitative Services, and that department may retain, and if it retains must treat, the child in the least restrictive alternative consistent with public safety. Any commitment of a child to a residential program must be separate from adult forensic programs. If the child attains competency, case management and supervision of the child will be transferred to the department in order to continue delinquency proceedings; however, the court retains authority to order the Department of Health and Rehabilitative Services to provide continued treatment to maintain competency.

(a) A child adjudicated incompetent due to mental retardation may be ordered into a program designated by the Department of Health and Rehabilitative Services for retarded children.

(b) A child adjudicated incompetent due to mental illness may be ordered into a program designated by the Department of Health and Rehabilitative Services for mentally ill children.

(c) Not later than 6 months after the date of commitment, or at the end of any period of extended treatment or training, or at any time the service provider determines the child has attained competency or no longer meets the criteria for commitment, the service provider must file a report with the court pursuant to the applicable Rules of Juvenile Procedure.

(4) If a child is determined to be incompetent to proceed, the court shall retain jurisdiction of the child for up to 2 years after the date of the order of incompetency, with reviews at least every 6 months to determine competency. If the court determines at any time that the child will never become competent to proceed, the court may dismiss the delinquency petition. If, at the end of the 2-year period following the date of the order of incompetency, the child has not attained competency and there is no evidence that the child will attain competency within a year, the court must dismiss the delinquency petition. If necessary, the court may order that proceedings under chapter 393 or chapter 394 be instituted. Such proceedings must be instituted not less than 60 days prior to the dismissal of the delinquency petition.

(5) If a child who is found to be incompetent does not meet the commitment criteria of subsection (2), the court may order the Department of Health and Rehabilitative Services to provide appropriate treatment and training in the community. All court-ordered treatment or training must be the least restrictive alternative that is consistent with public safety. Any commitment to a residential program must be separate from adult forensic programs. If a child is ordered to receive such services, the services shall be provided by the Department of Health and Rehabilitative Services. The department shall continue to provide case management services to the child and receive notice of the competency status of the child. The competency determination must be reviewed at least every 6 months by the service provider, and a copy of a written report evaluating the child's competency must be filed by the provider with the court and with the Department of Health and Rehabilitative Services and the department.

(6) The provisions of this section shall be implemented only subject to specific appropriation.

(7) The Department of Health and Rehabilitative Services and the department must report to the Governor, President of the Senate, and Speaker of the House of Representatives by December 15, 1996, on the issue of children who are incompetent for the purposes of juvenile delinquency proceedings. The report must contain the findings of a study group that includes five representatives, one each appointed by the President of the Senate, the Speaker of the House, the Florida Conference of Circuit Court Judges, the Florida Prosecuting Attorneys Association, and the Florida Public Defenders Association. The report shall include recommendations concerning the implementation of this act and recommendations for changes to this act.

Section 5. Effective upon this act becoming a law, subsections (2), (4), (5), and (10) of section 39.044, Florida Statutes, are amended to read:

39.044 Detention.—

(2) Subject to the provisions of subsection (1), a child taken into custody and placed into nonsecure or home detention care or detained in secure detention care prior to a detention hearing may continue to be detained by the court if:

(a) The child is alleged to be an escapee or an absconder from a commitment program, a community control program, furlough, or after-care supervision, or is alleged to have escaped while being lawfully transported to or from such program or supervision;

(b) The child is wanted in another jurisdiction for an offense which, if committed by an adult, would be a felony;

(c) The child is charged with a delinquent act or violation of law and requests in writing through legal counsel to be detained for protection from an imminent physical threat to his or her personal safety;

(d) The child is charged with committing an offense of domestic violence as defined in s. 741.28(1) and is detained as provided in s. 39.042(2)(b)3.;

(e) The child is charged with a capital felony, a life felony, a felony of the first degree, a felony of the second degree that does not involve a violation of chapter 893, or a felony of the third degree that is also a crime of violence, including any such offense involving the use or possession of a firearm; or

(f) The child is charged with any second degree or third degree felony involving a violation of chapter 893 or any third degree felony that is not also a crime of violence, and the child:

1. Has a record of failure to appear at court hearings after being properly notified in accordance with the Rules of Juvenile Procedure;
2. Has a record of law violations prior to court hearings;
3. Has already been detained or has been released and is awaiting final disposition of the case;
4. Has a record of violent conduct resulting in physical injury to others; or
5. Is found to have been in possession of a firearm.

A child who meets *any* of these criteria and who is ordered to be detained pursuant to this subsection shall be given a hearing within 24 hours after being taken into custody. The purpose of the detention hearing is to determine the existence of probable cause that the child has committed the delinquent act or violation of law with which he or she is charged and the need for continued detention. Unless a child is detained under paragraph (d), the court shall utilize the results of the risk assessment performed by the intake counselor or case manager and, based on the criteria in this subsection, shall determine the need for continued detention. A child placed into secure, nonsecure, or home detention care may continue to be so detained by the court pursuant to this subsection. If the court orders a placement more restrictive than indicated by the results of the risk assessment instrument, the court shall state, in writing, clear and convincing reasons for such placement. *Except as provided in s. 790.22(8) or in subparagraph (a)2., paragraph (b), paragraph (c), or paragraph (d) of subsection (10), when a child is placed into secure or nonsecure detention care, or into a respite home or other placement pursuant to a court order following a hearing, the court order must include specific instructions that direct the release of the child from such placement no later than 5 p.m. on the last day of the detention period specified in paragraph (b) or paragraph (c) of subsection (5), or subparagraph (a)1. of subsection (10), whichever is applicable, unless the requirements of such applicable provision have been met or an order of continuance has been granted pursuant to paragraph (5)(d).*

(4) The court ~~shall~~ *may* order the delivery of a child to a jail or other facility intended or used for the detention of adults:

(a) When the child has been transferred or indicted for criminal prosecution as an adult pursuant to this part, except that the court may not order or allow a child alleged to have committed a misdemeanor who is being transferred for criminal prosecution pursuant to s. 39.059 to be detained or held in a jail or other facility intended or used for the detention of adults; however, such child may be held temporarily in a detention facility; or

(b) When a child taken into custody in this state is wanted by another jurisdiction for prosecution as an adult.

The child shall be housed separately from adult inmates to prohibit a child from having regular contact with incarcerated adults, including trustees. "Regular contact" means sight and sound contact. Separation of children from adults shall permit no more than haphazard or accidental contact. The receiving jail or other facility shall contain a separate section for children and shall have an adequate staff to supervise and monitor the child's activities at all times. Supervision and monitoring of children includes physical observation and documented checks by jail or receiving facility supervisory personnel at intervals not to exceed 15 minutes. This paragraph does not prohibit placing two or more children in the same cell. Under no circumstances shall a child be placed in the same cell with an adult.

(5)(a) A child may not be placed into or held in secure, nonsecure, or home detention care for longer than 24 hours unless the court orders such detention care, *and the order includes specific instructions that direct the release of the child from such detention care*, in accordance with subsection (2). ~~The decision as to the release of the child from detention care shall be made by order of the court.~~ The order shall be a final order, reviewable by appeal pursuant to s. 39.069 and the Florida Rules of Appellate Procedure. *Appeals of such orders shall take precedence over other appeals and other pending matters.*

(b) A child may not be held in secure, nonsecure, or home detention care under a special detention order for more than 21 days unless an adjudicatory hearing for the case has been commenced by the court.

(c) A child may not be held in secure, nonsecure, or home detention care for more than 15 days following the entry of an order of adjudication ~~unless an order of disposition pursuant to s. 39.054 has been entered by the court or unless a continuance, which may not exceed 15 days, has been granted for cause. The detention center or facility superintendent shall request that the court order the release of any child held beyond 15 days without a grant of continuance.~~

(d) The time limits in paragraphs (b) and (c) do not include periods of delay resulting from a continuance granted by the court for cause on motion of the child or his or her counsel or of the state. *Upon the issuance of an order granting a continuance for cause on a motion by either the child, the child's counsel, or the state, the court shall conduct a hearing at the end of each 72-hour period, excluding Saturdays, Sundays, and legal holidays, to determine the need for continued detention of the child and the need for further continuance of proceedings for the child or the state.*

(10)(a)1. When a child is committed to the Department of Juvenile Justice awaiting dispositional placement, removal of the child from detention care shall occur within 5 days, excluding Saturdays, Sundays, and legal holidays. If the child is committed to a low-risk residential program or a moderate-risk residential program, the department may seek an order from the court authorizing continued detention for a specific period of time necessary for the appropriate residential placement of the child. However, such continued detention in secure detention care may not exceed 15 days after commitment, excluding Saturdays, Sundays, and legal holidays, and except as otherwise provided in this subsection.

2. *The court must place all children who are adjudicated and awaiting placement in a residential commitment program in detention care. Children who are in home detention care or nonsecure detention care may be placed on electronic monitoring. Effective July 1, 1995, the court may order that a child be held in home detention of unlimited duration with electronic monitoring while awaiting placement in a low-risk residential program or a moderate-risk residential program. A child committed to a moderate-risk residential program may be held in a juvenile assignment center pursuant to s. 39.0551 until placement or commitment is accomplished.*

(b) *A child who is placed in home detention care, nonsecure detention care, or home or nonsecure detention care with electronic monitoring, while awaiting placement in a low-risk or moderate-risk program, may be held in secure detention care for 5 days, if the child violates the conditions of the home detention care, the nonsecure detention care, or the electronic monitoring agreement. For any subsequent violation, the court may impose an additional 5 days in secure detention care.*



(c)(b) If the child is committed to a high-risk residential program, the child must be held in detention care or in a juvenile assignment center pursuant to s. 39.0551 until placement or commitment is accomplished.

(d)(e) ~~Effective July 1, 1995,~~ If the child is committed to a maximum-risk residential program, the child must be held in detention care or in an assignment center pursuant to s. 39.0551 until placement or commitment is accomplished.

(e)(d) Upon specific appropriation, the department may obtain comprehensive evaluations, including, but not limited to, medical, academic, psychological, behavioral, sociological, and vocational needs of a youth with multiple arrests for all level criminal acts or a youth committed to a minimum-risk or low-risk commitment program.

Section 6. Subsection (8) of section 790.22, Florida Statutes, is amended to read:

790.22 Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.—

(8) Notwithstanding s. 39.042 or s. 39.044(1), if a minor under 18 years of age is charged with an offense that involves the use or possession of a firearm, as defined in s. 790.001, other than a violation of subsection (3), or is charged for any offense during the commission of which the minor possessed a firearm, the minor shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a hearing within 24 hours after being taken into custody. Effective April 15, 1994, at the hearing, the court may order that the minor continue to be held in secure detention in accordance with the applicable time periods specified in s. 39.044(5), if the court finds that the minor meets the criteria specified in s. 39.044(2), or if the court finds by clear and convincing evidence that the minor is a clear and present danger to himself or the community. The Department of ~~Juvenile Justice Health and Rehabilitative Services~~ shall prepare a form for all minors charged under this subsection that states the period of detention and the relevant demographic information, including, but not limited to, the sex, age, and race of the minor; whether or not the minor was represented by private counsel or a public defender; the current offense; and the minor's complete prior record, including any pending cases. The form shall be provided to the judge to be considered when determining whether the minor should be continued in secure detention under this subsection. An order placing a minor in secure detention because the minor is a clear and present danger to himself or the community must be in writing, must specify the need for detention and the benefits derived by the minor or the community by placing the minor in secure detention, and must include a copy of the form provided by the department. The Department of ~~Juvenile Justice Health and Rehabilitative Services~~ must send the form, including a copy of any order, without client-identifying information, to the Division of Economic and Demographic Research of the Joint Legislative Management Committee.

Section 7. For the purpose of incorporating the amendment to section 39.044, Florida Statutes, in references thereto, the subdivision of Florida Statutes set forth below is reenacted to read:

#### 39.052 Hearings.—

##### (1) ADJUDICATORY HEARING.—

(a) The adjudicatory hearing must be held as soon as practicable after the petition alleging that a child has committed a delinquent act or violation of law is filed and in accordance with the Florida Rules of Juvenile Procedure; but reasonable delay for the purpose of investigation, discovery, or procuring counsel or witnesses shall be granted. If the child is being detained, the time limitations provided for in s. 39.044(5)(b) and (c) apply.

Section 8. Section 39.0581, Florida Statutes, is amended to read:

39.0581 Maximum-risk residential program.—A maximum-risk residential program is a physically secure residential commitment program with a designated length of stay from 18 months to 36 months, primarily serving children 13 to 15 years of age to 19 years of age, or until the jurisdiction of the court expires. The court may retain jurisdiction over the child until the child reaches the age of 21, specifically for the purpose

of the child completing the program. Each child committed to this level must meet one of the following criteria:

(1) *The youth is at least 13 years of age at the time of the disposition for the current offense and has been adjudicated on the current offense for:*

- (a) *Arson;*
  - (b) *Sexual battery;*
  - (c) *Robbery;*
  - (d) *Kidnapping;*
  - (e) *Aggravated child abuse;*
  - (f) *Aggravated assault;*
  - (g) *Aggravated stalking;*
  - (h) *Murder;*
  - (i) *Manslaughter;*
  - (j) *Unlawful throwing, placing, or discharging of a destructive device or bomb;*
  - (k) *Armed burglary;*
  - (l) *Aggravated battery;*
  - (m) *Lewd or lascivious assault or act in the presence of a child; or*
  - (n) *Carrying, displaying, using, threatening to use, or attempting to use a weapon or firearm during the commission of a felony.*
- (2) *The youth is at least 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed three or more times to a delinquency commitment program.*
- (3) *The youth is at least 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement.*
- (4) *The youth is at least 13 years of age at the time of the disposition for the current offense, the youth is eligible for prosecution as an adult for the current offense, and the current offense is ranked at level 7 or higher on the sentencing guidelines offense severity ranking chart pursuant to s. 921.0012.*

~~(1) Was no less than 15 years of age at the time of disposition for the current offense and has been adjudicated, or has had adjudication withheld, on the current offense for a capital felony, life felony, or first degree felony involving the infliction or threatened infliction of serious physical harm to another person.~~

~~(2) Was no less than 15 years of age at the time of disposition for the current offense and has been adjudicated, or has had adjudication withheld, on the current offense for a capital felony, life felony, first degree felony, or second degree felony, and has previously been adjudicated, or has had adjudication withheld, for at least three separate, nonrelated capital felonies, life felonies, first degree felonies, second degree felonies, or third degree offenses involving the use of a weapon within the preceding 24 months, and at least one of those adjudications, or the withholding of at least one of those adjudications, resulted in placement in a residential commitment program.~~

~~(3) Was not less than 15 years of age at the time of the disposition for the current offense, which may include any felony, and has previously been adjudicated, or had adjudication withheld, for at least four separate, nonrelated felony offenses within the preceding 36 months, and at least one of those adjudications, or the withholding of at least one of those adjudications, resulted in placement in a residential commitment program.~~

~~(4) Was not less than 15 years of age at the time of disposition for the current offense and has previously participated in an early delinquency intervention program as defined in s. 39.055 and has been previously committed to a residential commitment program.~~

~~(5) Was less than 18 years of age at the time of commission of the current offense and has been convicted as an adult, or has had adjudication withheld pursuant to s. 39.059, and otherwise meets the criteria.~~

Section 9. Section 39.0582, Florida Statutes, is amended to read:

39.0582 Intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age*.—

(1) ASSESSMENT AND TREATMENT SERVICES.—Pursuant to the provisions of this chapter and the establishment of appropriate program guidelines and standards, contractual instruments, which shall include safeguards of all constitutional rights, shall be developed for intensive residential treatment programs for *offenders less than 13 years of age* ~~10-13-year-old offenders~~ as follows:

(a) The department shall provide for:

1. The oversight of implementation of assessment and treatment approaches.

2. The identification and prequalification of appropriate individuals or not-for-profit organizations, including minority individuals or organizations when possible, to provide assessment and treatment services to intensive ~~10-13-year-old~~ offenders *less than 13 years of age*.

3. The monitoring and evaluation of assessment and treatment services for compliance with the provisions of this chapter and all applicable rules and guidelines pursuant thereto.

4. The development of an annual report on the performance of assessment and treatment to be presented to the Governor, the Attorney General, the President of the Senate, the Speaker of the House of Representatives, and the Auditor General no later than January 1 of each year.

(b) Assessment shall generally comprise the first 30 days of treatment and be provided by the same provider as treatment, but assessment and treatment services may be provided by separate providers, where warranted. Providers shall be selected who have the capacity to assess and treat the unique problems presented by children with different racial and ethnic backgrounds. The department shall retain contractual authority to reject any assessment or treatment provider for lack of qualification.

(2) INTENSIVE RESIDENTIAL TREATMENT PROGRAM FOR ~~10-13-YEAR-OLD OFFENDERS LESS THAN 13 YEARS OF AGE~~.—

(a) There is created the intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age*. The program shall combine 9 to 12 months of intensive secure residential treatment followed by a minimum of 9 months of aftercare. The components of the program shall include, but not be limited to:

1. Diagnostic evaluation services.

2. Appropriate treatment modalities, including substance abuse intervention, mental health services, and sexual behavior dysfunction interventions and gang-related behavior interventions.

3. Life skills.

4. Values clarification.

5. Case management services.

6. Educational services, including special and remedial education.

7. Recreational and leisure time activities.

8. Community involvement opportunities commencing, where appropriate, with the direct and timely payment of restitution to the victim.

9. Intensive aftercare.

10. Graduated reentry into the community.

11. A diversity of forms of individual and family treatment appropriate to and consistent with the child's needs.

12. Consistent and clear consequences for misconduct.

(b) The department is authorized to contract with private companies to provide some or all of the components indicated in paragraph (a).

(c) The department shall involve local law enforcement agencies, the judiciary, school board personnel, the office of the state attorney, the office of the public defender, and community service agencies interested in or currently working with juveniles, in planning and developing this program.

(d) The department is authorized to accept funds or in-kind contributions from public or private sources to be used for the purposes of this section.

(e) *The department shall establish quality assurance standards to ensure the quality and substance of mental health services provided to children with mental, nervous, or emotional disorders who may be committed to intensive residential treatment programs. The quality assurance standards shall address the possession of credentials by the mental health service providers.*

(3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.—

(a) Assessment and treatment shall be conducted by treatment professionals with expertise in specific treatment procedures, which professionals shall exercise all professional judgment independently of the department.

(b) Treatment provided to children in designated facilities shall be suited to the assessed needs of each individual child and shall be administered safely and humanely, with respect for human dignity.

(c) The department may promulgate rules for the implementation and operation of programs and facilities for children who are eligible for an intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age*. The department must involve the following groups in the promulgation of rules for services for this population: local law enforcement agencies, the judiciary, school board personnel, the office of the state attorney, the office of the public defender, and community service agencies interested in or currently working with juveniles. When promulgating these rules, the department must consider program principles, components, standards, procedures for intake, diagnostic and assessment activities, treatment modalities, and case management.

(d) Any provider who acts in good faith is immune from civil or criminal liability for his or her actions in connection with the assessment, treatment, or transportation of an intensive ~~10-13-year-old~~ offender *less than 13 years of age* under the provisions of this chapter.

(e) After a child has been adjudicated delinquent pursuant to s. 39.053(3), the court shall determine whether the child is eligible for an intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age* pursuant to s. 39.01(11). If the court determines that the child does not meet the criteria, the provisions of s. 39.054 shall apply.

(f) After a child has been transferred for criminal prosecution, a circuit court judge may direct an intake counselor or case manager to consult with designated staff from an appropriate intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age* for the purpose of making recommendations to the court regarding the child's placement in such program.

(g) Recommendations as to a child's placement in an intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age* may be based on a preliminary screening of the child at appropriate sites, considering the child's location while court action is pending, which may include the nearest regional detention center or facility or jail.

(h) Based on the recommendations of the multidisciplinary assessment, the intake counselor or case manager shall make the following recommendations to the court:

1. For each child who has not been transferred for criminal prosecution, the intake counselor or case manager shall recommend whether placement in such program is appropriate and needed.

2. For each child who has been transferred for criminal prosecution, the intake counselor or case manager shall recommend whether the most appropriate placement for the child is a juvenile justice system program, including a child who is eligible for an intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age*, or placement in the adult correctional system.

If treatment provided by an intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age* is determined to be appropriate and needed and placement is available, the intake counselor or case manager and the court shall identify the appropriate intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age* best suited to the needs of the child.

(i) The treatment and placement recommendations shall be submitted to the court for further action pursuant to this paragraph:

1. If it is recommended that placement in an intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age* is inappropriate, the court shall make an alternative disposition pursuant to s. 39.057 or other alternative sentencing as applicable, utilizing the recommendation as a guide.

2. If it is recommended that placement in an intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age* is appropriate, the court may commit the child to the department for placement in the restrictiveness level designated for intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age*.

(j) The following provisions shall apply to children in an intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age*:

1. A child shall begin participation in the reentry component of the program based upon a determination made by the treatment provider and approved by the department.

2. A child shall begin participation in the community supervision component of aftercare based upon a determination made by the treatment provider and approved by the department. The treatment provider shall give written notice of the determination to the circuit court having jurisdiction over the child. If the court does not respond with a written objection within 10 days, the child shall begin the aftercare component.

3. A child shall be discharged from the program based upon a determination made by the treatment provider with the approval of the department.

4. In situations where the department does not agree with the decision of the treatment provider, a reassessment shall be performed, and the department shall utilize the reassessment determination to resolve the disagreement and make a final decision.

(k) Any commitment of a child to the department for placement in an intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age* shall be for an indeterminate period of time, but the time shall not exceed the maximum term of imprisonment which an adult may serve for the same offense. Any child who has not completed the residential portion of the intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age* by his or her fourteenth birthday may be transferred to another program for committed delinquent offenders.

#### (4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.—

(a) Pursuant to the provisions of this section, the department shall implement the comprehensive assessment instrument for the treatment needs of children who are eligible for an intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age* and for the assessment, which assessment shall include the criteria under s. 39.01(11) and shall also include, but not be limited to, evaluation of the child's:

1. Amenability to treatment.
2. Proclivity toward violence.

3. Tendency toward gang involvement.

4. Substance abuse or addiction and the level thereof.

5. History of being a victim of child abuse or sexual abuse, or indication of sexual behavior dysfunction.

6. Number and type of previous adjudications, findings of guilt, and convictions.

7. Potential for rehabilitation.

(b) The department shall contract with multiple individuals or not-for-profit organizations to perform the assessments and treatment, and shall ensure that the staff of each provider are appropriately trained.

(c) Assessment and treatment providers shall have a written procedure developed, in consultation with licensed treatment professionals, establishing conditions under which a child's blood and urine samples will be tested for substance abuse indications. It is not unlawful for the person receiving the test results to divulge the test results to the relevant facility staff and department personnel. However, such information is exempt from the provisions of ss. 119.01 and 119.07(1) and s. 24(a), Art. I of the State Constitution.

(d) Serologic blood test and urinalysis results obtained pursuant to paragraph (c) are confidential, except that they may be shared with employees or officers of the department, the court, and any assessment or treatment provider and designated facility treating the child. No person to whom the results of a test have been disclosed under this section may disclose the test results to another person not authorized under this section.

(e) The results of any serologic blood or urine test on a child who is eligible for an intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age* shall become a part of that child's permanent medical file. Upon transfer of the child to any other designated treatment facility, such file shall be transferred in an envelope marked confidential. The results of any test designed to identify the human immunodeficiency virus, or its antigen or antibody, shall be accessible only to persons designated by rule of the department. The provisions of such rule shall be consistent with the guidelines established by the Centers for Disease Control.

(f) The exemptions in this section from public records requirements provided in s. 119.07(1) and s. 24(a), Art. I of the State Constitution are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(g) A record of the assessment and treatment of each child who is eligible for an intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age* shall be maintained by the provider, which shall include data pertaining to the child's treatment and such other information as may be required under rules of the department. Unless waived by express and informed consent by the child or the guardian or, if the child is deceased, by the child's personal representative or by the person who stands next in line of intestate succession, the privileged and confidential status of the clinical assessment and treatment record shall not be lost by either authorized or unauthorized disclosure to any person, organization, or agency.

(h) The assessment and treatment record shall not be a public record, and no part of it shall be released, except that:

1. The record shall be released to such persons and agencies as are designated by the child or the guardian.

2. The record shall be released to persons authorized by order of court, excluding matters privileged by other provisions of law.

3. The record or any part thereof shall be disclosed to a qualified researcher, as defined by rule; a staff member of the designated treatment facility; or an employee of the department when the administrator of the facility or the Secretary of Juvenile Justice deems it necessary for treatment of the child, maintenance of adequate records, compilation of treatment data, or evaluation of programs.

4. Information from the assessment and treatment record may be used for statistical and research purposes if the information is abstracted in such a way as to protect the identity of individuals.

(i) Notwithstanding other provisions of this section, the department may request, receive, and provide assessment and treatment information to facilitate treatment, rehabilitation, and continuity of care of any child who is eligible for an intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age* from any of the following:

1. The Social Security Administration and the United States Department of Veterans Affairs.
2. Law enforcement agencies, state attorneys, defense attorneys, and judges in regard to the child's status.
3. Personnel in any facility in which the child may be placed.
4. Community agencies and others expected to provide services to the child upon his or her return to the community.

(j) Any law enforcement agency, designated treatment facility, governmental or community agency, or other entity that receives information pursuant to this section shall maintain such information as a non-public record as otherwise provided herein.

(k) Any agency, not-for-profit organization, or treatment professional who acts in good faith in releasing information pursuant to this subsection shall not be subject to civil or criminal liability for such release.

(l) Assessment and treatment records are confidential as described in this paragraph and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption from s. 119.07(1) and s. 24(a), Art. I of the State Constitution is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

1. The department shall have full access to the assessment and treatment records to ensure coordination of services to the child.

2. The principles of confidentiality of records as provided in s. 39.045 shall apply to the assessment and treatment records of children who are eligible for an intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age*.

(m) For purposes of effective administration, accurate tracking and recordkeeping, and optimal treatment decisions, each assessment and treatment provider shall maintain a central identification file on each child it treats in the intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age*.

(n) The file of each child treated in the intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age* shall contain, but is not limited to, pertinent children-in-need-of-services and delinquency record information maintained by the department; pertinent school records information on behavior, attendance, and achievement; and pertinent information on delinquency or children in need of services maintained by law enforcement agencies and the state attorney.

(o) All providers under this section shall, as part of their contractual duties, collect, maintain, and report to the department all information necessary to comply with mandatory reporting pursuant to the promulgation of rules by the department for the implementation of intensive residential treatment programs for ~~10-13-year-old~~ offenders *less than 13 years of age* and the monitoring and evaluation thereof.

(p) The department is responsible for the development and maintenance of a statewide automated tracking system for children who are treated in an intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age*.

#### (5) DESIGNATED TREATMENT FACILITIES.—

(a) Designated facilities shall be sited and constructed by the department, directly or by contract, pursuant to departmental rules, to ensure that facility design is compatible with treatment. The department is authorized to contract for the construction of the facilities and may also lease facilities. The number of beds per facility shall not exceed 25. An assessment of need for additional facilities shall be conducted prior to the siting or construction of more than one facility in any judicial circuit.

(b) Designated facilities for an intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age* shall be

separate and secure facilities established under the authority of the department for the treatment of such children.

(c) Security for designated facilities for children who are eligible for an intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age* shall be determined by the department. The department is authorized to contract for the provision of security.

(d) With respect to the treatment of children who are eligible for an intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age* under this section, designated facilities shall be immune from liability for civil damages except in instances when the failure to act in good faith results in serious injury or death, in which case liability shall be governed by s. 768.28.

(e) Minimum standards and requirements for designated treatment facilities shall be contractually prescribed pursuant to subsection (1).

Section 10. Section 39.0583, Florida Statutes, is amended to read:

39.0583 Intensive residential treatment programs for ~~10-13-year-old~~ offenders *less than 13 years of age*; prerequisite for commitment.—No child who is eligible for commitment to an intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age* as established in s. 39.01(11), may be committed to any intensive residential treatment program for ~~10-13-year-old~~ offenders *less than 13 years of age* as established in s. 39.0582, unless such program has been established by the department through existing resources or specific appropriation, for such program.

Section 11. Subsection (1) of section 39.0584, Florida Statutes, is amended to read:

39.0584 Commitment programs for juvenile felony offenders.—

(1) Notwithstanding any other law and regardless of the child's age, a child who is adjudicated delinquent, or for whom adjudication is withheld, for an act that would be a felony if committed by an adult, shall be committed to:

(a) A boot camp program under s. 39.057 if the child has participated in an early delinquency intervention program as provided in s. 39.055.

(b) A program for serious or habitual juvenile offenders under s. 39.058 or an intensive residential treatment program for ~~10-year-old to 13-year-old~~ offenders *less than 13 years of age* under s. 39.0582, if the child has participated in an early delinquency intervention program and has completed a boot camp program.

(c) A maximum-risk residential program, if the child has participated in an early delinquency intervention program, has completed a boot camp program, and has completed a program for serious or habitual juvenile offenders or an intensive residential treatment program for ~~10-year-old to 13-year-old~~ offenders *less than 13 years of age*. The commitment of a child to a maximum-risk residential program must be for an indeterminate period, but may not exceed the maximum term of imprisonment that an adult may serve for the same offense.

(2) In committing a child to the appropriate program, the court may consider an equivalent program of similar intensity as being comparable to a program required under subsection (1).

Section 12. Effective upon this act becoming a law, present subsection (14) of section 39.074, Florida Statutes, is redesignated as subsection (19), and new subsections (14), (15), (16), (17), and (18) are added to that section, to read:

39.074 Siting of facilities; study; criteria.—

(14) *It is the intent of the Legislature to expedite the siting of, acquisition of land for, and construction by the Department of Juvenile Justice of state juvenile justice facilities operated by the department or a private vendor under contract with the department. Other agencies shall cooperate with the department and expeditiously fulfill their responsibilities to avoid unnecessary delay in the siting of, acquisition of land for, and construction of state juvenile justice facilities. This section and all other laws of the state shall be construed to accomplish this intent. This section shall take precedence over any other law to the contrary.*

(15)(a) *The department shall acquire land and erect juvenile justice facilities necessary to accommodate children committed to the custody, care, or supervision of the department, and shall make additional alterations to facilities to accommodate any increase in the number of children. The department shall establish adequate accommodations for staff of the department who are required to reside continuously within the facilities.*

(b) *Notwithstanding ss. 255.25001(2) and 255.25(1)(b), the department may enter into lease-purchase agreements to provide juvenile justice facilities for the housing of committed youths contingent upon available funds. The facilities provided through such agreements shall meet the program plan and specifications of the department. The department may enter into such lease agreements with private corporations and other governmental entities. However, notwithstanding the provisions of s. 255.255(3)(a), no such lease agreement may be entered into except upon advertisement for the receipt of competitive bids and award to the lowest and best bidder except when contracting with other governmental entities.*

(c) *A lease-purchase agreement that is for a term extending beyond the end of a fiscal year is subject to the provisions of s. 216.311.*

(16)(a) *Notwithstanding s. 287.057 or s. 253.025, when the department finds it necessary for timely site acquisition, it may contract, without using the competitive selection procedure, with an appraiser whose name is on the list of approved appraisers maintained by the Division of State Lands of the Department of Environmental Protection under s. 253.025(6)(b). When the department directly contracts for appraisal services, it must contract with an approved appraiser who is not employed by the same appraisal firm for review services.*

(b) *Notwithstanding s. 253.025(6), the department may negotiate and enter into an option contract before an appraisal is obtained. The option contract must state that the final purchase price may not exceed the maximum value allowed by law. The consideration for such an option contract may not exceed 10 percent of the estimate obtained by the department or 10 percent of the value of the parcel, whichever amount is greater.*

(c) *This subsection applies only to a purchase or acquisition of land for juvenile justice facilities. This subsection does not modify the authority of the Board of Trustees of the Internal Improvement Trust Fund or the Division of State Lands of the Department of Environmental Protection to approve any contract for purchase of state lands as provided by law or to require policies and procedures to obtain clear legal title to parcels purchased for state purposes.*

(17) *The department may sell, to the best possible advantage, any detached parcels of land belonging to the bodies of land purchased for the state juvenile justice facilities. The department may purchase any parcel of land contiguous with the lands purchased for state juvenile justice facilities.*

(18) *The department may begin preliminary site preparation and obtain the appropriate permits for the construction of a juvenile justice facility after approval by the Board of Trustees of the Internal Improvement Trust Fund of the lease purchase agreement or option contract if, in the department's discretion, commencing construction is in the best interests of the state.*

Section 13. Effective upon this act becoming a law, subsection (17) is added to section 253.025, Florida Statutes, to read:

253.025 Acquisition of state lands for purposes other than preservation, conservation, and recreation.—

(17) Pursuant to s. 39.074, the Department of Juvenile Justice is responsible for obtaining appraisals and entering into option agreements and agreements for the purchase of state juvenile justice facility sites. An option agreement or agreement for purchase is not binding upon the state until it is approved by the Board of Trustees of the Internal Improvement Trust Fund. The provisions of paragraphs (6)(b), (c), and (d) and (7)(b), (c), and (d) apply to all appraisals, offers, and counteroffers of the Department of Juvenile Justice for state juvenile justice facility sites.

Section 14. Effective July 1, 1996, section 287.155, Florida Statutes, is amended to read:

287.155 Motor vehicles; purchase by Division of Universities, Department of Health and Rehabilitative Services, Department of Juvenile Justice, and Department of Corrections.—

(1) The Division of Universities of the Department of Education, the Department of Health and Rehabilitative Services, the Department of Juvenile Justice, and the Department of Corrections are hereby authorized, subject to the approval of the Department of Management Services, to purchase automobiles, trucks, tractors, and other automotive equipment for the use of institutions under the management of the said Division of Universities, the Department of Health and Rehabilitative Services, and the Department of Corrections, and for the use of residential facilities managed or contracted by the Department of Juvenile Justice.

(2) The Department of Corrections shall, prior to purchasing motor vehicles, seek to procure the motor vehicles from those vehicles renovated pursuant to correctional work programs of the Department of Corrections, and for the use of residential facilities managed or contracted by the Department of Juvenile Justice.

~~(3) For the 1995-1996 fiscal year only, the replacement of motor vehicles at juvenile justice residential programs and residential facilities operated by the Department of Health and Rehabilitative Services or the Department of Juvenile Justice may be funded in the same manner as replacement of motor vehicles at authorized institutions under this section. This subsection is repealed on July 1, 1996.~~

Section 15. Funds from juvenile justice appropriations may be utilized as one-time startup funding for juvenile justice purposes that include, but are not limited to, remodeling or renovation of existing facilities, construction costs, leasing costs, purchase of equipment and furniture, site development, and other necessary and reasonable costs associated with the startup of facilities or programs.

Section 16. Section 6 of chapter 94-209, Laws of Florida, as amended by chapter 95-267, Laws of Florida, is hereby repealed.

Section 17. Effective July 1, 1996, the Juvenile Justice Advisory Board, as established in s. 39.003, Florida Statutes, is transferred to the Legislature, and placed under the Joint Legislative Management Committee, by a type one transfer as defined in section 20.06, Florida Statutes. The advisory board will exercise its powers, duties, and functions as prescribed by law, subject to the general oversight of the Joint Legislative Management Committee. All of the statutory powers, duties, and functions and the records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Juvenile Justice Advisory Board and all of its unexpired contracts and grants shall remain with the Juvenile Justice Advisory Board.

Section 18. Subsections (1) and (5) of section 39.42, Florida Statutes, are amended, and subsection (7) is added to said section, to read:

39.42 Families in need of services and children in need of services; procedures and jurisdiction.—

(1) It is the intent of the Legislature to address the problems of families in need of services by providing them with an array of services designed to preserve the unity and integrity of the family and to emphasize parental responsibility for the behavior of their children. ~~These Services to families in need of services and children in need of services shall be provided on a continuum of increasing level of intensity and participation by the parent and child. It is the further intent of the Legislature that Judicial intervention to resolve the problems and conflicts that exist within a family shall be limited to situations in which a resolution to the problem or conflict has not been achieved through service, treatment, and family intervention after all available less restrictive resources have been exhausted mediation have, after a diligent effort, failed to achieve a resolution to the problems and conflicts.~~ In creating this part, the Legislature recognizes the need to distinguish the problems of truants, runaways, and children beyond the control of their parents, and the services provided to these children, from the problems and services designed to meet the needs of abandoned, abused, neglected, and delinquent children. In achieving this recognition, it shall be the policy of the state to develop short-term, temporary services and programs utilizing the least restrictive method for families in need of services and children in need of services.

(5) The circuit court shall have exclusive original jurisdiction of proceedings in which a child is alleged to be a child in need of services. When

the jurisdiction of any child who has been found to be a child in need of services or the parent, custodian, or legal guardian of such a child is obtained, the court shall retain jurisdiction, unless relinquished by its order or unless the department withdraws its petition because the child no longer meets the definition of a child in need of services as defined in s. 39.01(12), until the child reaches 18 years of age. This subsection shall not be construed to prevent the exercise of jurisdiction by any other court having jurisdiction of the child if the child commits a violation of law, is the subject of the dependency provisions under this chapter, or is the subject of a pending investigation into an allegation or suspicion of abuse, neglect, or abandonment.

(7) The department may contract with a provider to provide services and programs for families in need of services and children in need of services.

Section 19. Section 39.421, Florida Statutes, is amended to read:

39.421 Taking into custody a child alleged to be from a family in need of services or to be a child in need of services.—

(1) A child may be taken into custody:

(a) By a law enforcement officer when the officer has reasonable grounds to believe that the child has run away from his or her parents, guardian, or other legal custodian.

(b) By a law enforcement officer when the officer has reasonable grounds to believe that the child is absent from school without authorization, for the purpose of delivering the child without unreasonable delay to the school system. For the purpose of this paragraph, "school system" includes, but is not limited to, a center approved by the superintendent of schools for the purpose of counseling students and referring them back to the school system.

(c) Pursuant to an order of the circuit court based upon sworn testimony before or after a petition is filed under s. 39.436.

(d) By a law enforcement officer when the child voluntarily agrees to or requests services pursuant to this part or placement in a shelter.

(2) The person taking the child into custody shall:

(a) Release the child to a parent, guardian, legal custodian, or responsible adult relative or to a department-approved family-in-need-of-services and child-in-need-of-services provider runaway-shelter if the person taking the child into custody has reasonable grounds to believe the child has run away from a parent, guardian, or legal custodian; is truant; or is beyond the control of the parent, guardian, or legal custodian; following such release, the person taking the child into custody shall make a full written report to the intake office of the department within 3 days; or

(b) Deliver the child to an intake counselor of the department, stating the facts by reason of which the child was taken into custody and sufficient information to establish probable cause that the child is from a family in need of services, and make a full written report to the intake office of the department within 3 days.

(3) If the child is taken into custody by, or is delivered to, the department an intake counselor, the appropriate representative of the department intake counselor shall review the facts and make such further inquiry as necessary to determine whether the child shall remain in custody or be released. Unless shelter is required as provided in s. 39.422(1), the department intake counselor shall:

(a) Release the child to his or her parent, guardian, or legal custodian, to a responsible adult relative, to a responsible adult approved by the department, or to a department-approved family-in-need-of-services and child-in-need-of-services provider runaway-shelter; or

(b) Authorize temporary services and treatment that would allow the child alleged to be from a family in need of services to remain at home.

Section 20. Section 39.422, Florida Statutes, is amended to read:

39.422 Placement of a child from a family in need of services or a child in need of services in a shelter.—

(1) Unless ordered by the court pursuant to the provisions of this part, or upon voluntary consent to placement by the child and the child's parent, legal guardian, or custodian, a child taken into custody shall not be placed in a shelter prior to a court hearing unless a determination has been made that the provision of appropriate and available services will not eliminate the need for placement and that such placement is required:

(a) To provide an opportunity for the child and family to agree upon conditions for the child's return home, when immediate placement in the home would result in a substantial likelihood that the child and family would not reach an agreement; or

(b) Because a parent, custodian, or guardian is unavailable to take immediate custody of the child.

(2) If the department intake counselor determines that placement in a shelter is necessary according to the provisions of subsection (1), the departmental representative intake counselor shall authorize placement of the child in a shelter provided by the community specifically for runaways and troubled youth who are children in need of services or members of families in need of services and shall immediately notify the parents or legal custodians that the child was taken into custody.

(3) A child who is involuntarily placed in a shelter taken into custody under subsection (2) shall be given a shelter hearing within 24 hours after being taken into custody to determine whether shelter placement is required. The shelter petition filed with the court shall address each condition required to be determined in subsection (1).

(4) The circuit court, or the county court if previously designated by the chief judge of the circuit court for such purpose, shall hold the shelter hearing. When the county judge is not an attorney, the chief judge may designate a member of the bar to hold the shelter hearing. The reasons for placement in a shelter provided in subsection (1) shall govern the decision of all persons responsible for determining whether continued placement in a shelter is warranted prior to the disposition by the court.

(4)(5) A child may not be held involuntarily in a shelter longer than 24 hours unless an order so directing is made by the court after a shelter hearing finding that placement in a shelter is necessary based on the criteria in subsection (1) and that the department has made reasonable efforts to prevent or eliminate the need for removal of the child from the home.

(5)(6) Under the provisions of this part,:

(a) Continued placement in a shelter of a child from a family in need of services may be for no longer than 72 hours following the shelter hearing, unless an extension of up to 72 hours is granted by the court for good cause. No more than one extension may be granted by the court.

(b) placement in a shelter of a child in need of services or a child from a family in need of services shall be for no longer than 35 14 days.

(6)(7) When any child is placed in a shelter pursuant to court order following a shelter hearing, the court shall order the natural or adoptive parents of such child, the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay, to the department or institution having custody of the child, fees as established by the department. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

(7)(8) A child who is adjudicated a child in need of services or alleged to be from a family in need of services or a child in need of services may not be placed in a secure detention facility or jail or any other commitment program for delinquent children under any circumstances.

(8)(9) As an alternative to secure detention, The court may order the placement of a child in need of services into a staff-secure facility for no longer than 5 days for the purpose of evaluation and assessment.

Section 21. Section 39.423, Florida Statutes, is amended to read:

39.423 Intake.—



(1) Intake shall be performed by the department. A report or complaint alleging that a child is from a family in need of services shall be made to the intake office operating in the county in which the child is found or in which the case arose. Any person or agency, including, but not limited to, the local school district, law enforcement agency, or Department of Health and Rehabilitative Services, having knowledge of the facts may make a report or complaint.

(2) ~~A representative of the department~~ ~~The intake counselor~~ shall make a preliminary determination as to whether the report or complaint is complete. The criteria for the completeness of a report or complaint with respect to a child alleged to be from a family in need of services while subject to compulsory school attendance shall be governed by s. 39.01(73). In any case in which the ~~representative of the department intake counselor~~ finds that the report or complaint is incomplete, the ~~representative of the department intake counselor~~ shall return the report or complaint without delay to the person or agency originating the report or complaint or having knowledge of the facts or to the appropriate law enforcement agency having investigative jurisdiction and request additional information in order to complete the report or complaint.

(3) If the ~~representative of the department intake counselor~~ determines that in his or her judgment the interests of the family, the child, and the public will be best served by providing the family and child services and treatment voluntarily accepted by the child and the parents or legal custodians, the ~~departmental representative intake counselor~~ may refer the family or child to an appropriate service and treatment provider.

(4) If the ~~department intake counselor~~ has reasonable grounds to believe that the child has been abandoned, abused, or neglected, ~~it he or she~~ shall proceed pursuant to the provisions of s. 415.505 and part III of this chapter.

Section 22. Paragraph (m) is added to subsection (2) of section 39.424, Florida Statutes, and subsection (3) of said section is amended, to read:

39.424 Services to families in need of services.—

(2) These services may include, but need not be limited to:

(m) Assessment.

(3) The department shall advise the parents or legal guardian that they are responsible for contributing to the cost of the child or family services and treatment to the extent of their ability to pay. The department shall set and charge fees for services and treatment provided to clients ~~pursuant to s. 402.33.~~

Section 23. Subsections (1) and (2) of section 39.426, Florida Statutes, are amended to read:

39.426 Case staffing; services and treatment to a family in need of services.—

(1) The ~~appropriate representative of the department intake counselor~~ shall request a meeting of the family and child with a case staffing committee to review the case of any family or child who the ~~department intake counselor~~ determines is in need of services or treatment if:

(a) The family or child is not in agreement with the services or treatment offered;

(b) The family or child will not participate in the services or treatment selected; or

(c) The ~~representative of the department intake counselor~~ needs assistance in developing an appropriate plan for services. The time and place selected for the meeting shall be convenient for the child and family.

(2) The composition of the case staffing committee shall be based on the needs of the family and child. It shall include the ~~appropriate representative of the department intake counselor~~ pursuant to s. 39.423 and, ~~the intake counselor's supervisor, a representative of the child's school district, and a representative of the Department of Juvenile Justice, and may include the supervisor of the department's representative; a representative from the area of health, mental health, social, or educational services; and any person recommended by the child or family.~~

Section 24. Sections 39.427, 39.428, and 39.429, Florida Statutes, as amended by chapter 94-164, Laws of Florida, are hereby repealed.

Section 25. Section 39.436, Florida Statutes, is amended to read:

39.436 Petition for a child in need of services.—

(1) All proceedings seeking an adjudication that a child is a child in need of services shall be initiated by the filing of a petition by an attorney ~~representing for~~ the department. If a child in need of services has been placed in a shelter pursuant to s. 39.422, the petition shall be filed immediately and contain notice of arraignment pursuant to s. 39.44.

(2) The department shall file a petition for a child in need of services if the ~~family, child, case manager or, member of the case staffing committee, or family mediator~~ requests that a petition be filed and:

(a) The family and child have in good faith, but unsuccessfully, used the services and process described in ss. 39.424 ~~and; 39.426, 39.427, 39.428, and 39.43 39.435; or~~

(b) The family or child have refused all services described in ss. 39.424 ~~and; 39.426, 39.427, 39.428, and 39.43 39.435~~ after reasonable efforts by the department to involve the family and child in services and treatment.;

~~(c) The family mediator or family mediation panel has rejected the case as inappropriate for mediation; or~~

~~(d) The family arbitrator or family arbitration panel has rejected the case as inappropriate for arbitration.~~

(3) ~~Effective January 1, 1997, once the requirements in subsection (2) have been met, the department shall file a petition for a child in need of services within 45 days.~~

~~(4)(3)~~ The petition shall be in writing, shall state the specific grounds under s. 39.01(12) by which the child is designated a child in need of services, and shall certify that the conditions prescribed in subsection (2) have been met. The petition shall be signed by the petitioner under oath stating good faith in filing the petition and shall be signed by an attorney for the department.

~~(5)(4)~~ The form of the petition and its contents shall be determined by rules of procedure adopted by the Supreme Court.

~~(6) The department may withdraw a petition at any time prior to the child being adjudicated a child in need of services.~~

Section 26. Section 39.4365, Florida Statutes, is renumbered as section 39.4431, Florida Statutes.

Section 27. Subsection (5) of section 39.437, Florida Statutes, is amended to read:

39.437 Process and service.—

(5) The jurisdiction of the court shall attach to the child ~~and the parent, custodian, or legal guardian of the child~~ and the case when the summons is served upon the child or a parent or legal or actual custodian of the child or when the child is taken into custody with or without service of summons and after filing of a petition for a child in need of services, and thereafter the court may control the child and case in accordance with this part.

Section 28. Subsections (1), (3), and (4) of section 39.438, Florida Statutes, are amended to read:

39.438 Response to petition and representation of parties.—

(1) At the time a petition is filed, ~~the court may appoint an attorney for the department shall file a motion for the appointment of a guardian ad litem for the child.~~

(3) When a petition for a child in need of services has been filed and the parents, guardian, or legal custodian of the child and the child have advised the ~~department intake office~~ that the truth of the allegations is acknowledged and that no contest is to be made of the adjudication, the attorney ~~representing for~~ the department may set the case before the court for an adjudicatory hearing. If there is a change in the plea at this

hearing, the court shall continue the hearing to permit the attorney ~~representing~~ for the department to prepare and present the case.

(4) An attorney ~~representing~~ for the department shall represent the state in any proceeding in which the petition alleges that a child is a child in need of services and in which a party denies the allegations of the petition and contests the adjudication.

Section 29. Section 39.439, Florida Statutes, is renumbered as section 39.446, Florida Statutes, and amended to read:

~~39.446~~ ~~39.439~~ Medical, psychiatric, and psychological examination and treatment of child; physical or mental examination of parent, guardian, or person requesting custody of child. —

(1) When any child is ~~taken into custody and is to be placed detained~~ in shelter care, the department is authorized to have a medical screening performed on the child without authorization from the court and without consent from a parent or guardian. Such medical screening shall be performed by a licensed health care professional and shall be to examine the child for injury, illness, and communicable diseases. ~~The department shall by rule establish the invasiveness of the medical procedures authorized to be performed under this subsection.~~ In no case does this subsection authorize the department to consent to medical treatment for such children.

(2) When the department has performed the medical screening authorized by subsection (1) or when it is otherwise determined by a licensed health care professional that a child ~~who is in the custody of the department, but who has not been committed to the department pursuant to s. 39.442,~~ is in need of medical treatment, consent for medical treatment shall be obtained in the following manner:

(a)1. Consent to medical treatment shall be obtained from a parent or guardian of the child; or

2. A court order for such treatment shall be obtained.

(b) If a parent or guardian of the child is unavailable and his or her whereabouts cannot be reasonably ascertained and it is after normal working hours so that a court order cannot reasonably be obtained, an authorized agent of the department ~~or its provider~~ has the authority to consent to necessary medical treatment for the child. The authority of the department to consent to medical treatment in this circumstance is limited to the time reasonably necessary to obtain court authorization.

(c) If a parent or guardian of the child is available but refuses to consent to the necessary treatment, a court order is required, unless the situation meets the definition of an emergency in s. 743.064 or the treatment needed is related to suspected abuse or neglect of the child by the parent or guardian. In such case, the department has the authority to consent to necessary medical treatment. This authority is limited to the time reasonably necessary to obtain court authorization.

In no case may the department consent to sterilization, abortion, or termination of life support.

(3) A judge may order that a child ~~alleged to be or adjudicated a child in need of services in the physical custody of the department~~ to be examined by a licensed health care professional. The judge may also order such child to be evaluated by a psychiatrist or a psychologist, by a district school board educational needs assessment team, or, if a developmental disability is suspected or alleged, by the developmental disability diagnostic and evaluation team of the Department of Health and Rehabilitative Services. The judge may order a family assessment if that assessment was not completed at an earlier time. If it is necessary to place a child in a residential facility for such evaluation, then the criteria and procedure established in s. 394.463(2) or chapter 393 shall be used, whichever is applicable. The educational needs assessment provided by the district school board educational needs assessment team shall include, but not be limited to, reports of intelligence and achievement tests, screening for learning disabilities and other handicaps, and screening for the need for alternative education pursuant to s. 230.2316.

(4) A judge may order that a child ~~alleged to be or adjudicated a child in need of services in the physical custody of the department~~ to be treated by a licensed health care professional. The judge may also order such child to receive mental health or retardation services from a psychiatrist, psychologist, or other appropriate service provider. If it is necessary to place the child in a residential facility for such services, then the

procedures and criteria established in s. 394.467 or chapter 393 shall be used, whichever is applicable. A child may be provided mental health or retardation services in emergency situations, pursuant to the procedures and criteria contained in s. 394.463(1) or chapter 393, whichever is applicable.

(5) ~~When a child is in the physical custody of the department and~~ there are indications of physical injury or illness, a licensed health care professional shall be immediately called or the child shall be taken to the nearest available hospital for emergency care.

(6) Except as otherwise provided herein, nothing in this section shall be deemed to eliminate the right of a parent, a guardian, or the child to consent to examination or treatment for the child.

(7) Except as otherwise provided herein, nothing in this section shall be deemed to alter the provisions of s. 743.064.

(8) A court shall not be precluded from ordering services or treatment to be provided to the child by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a church or religious organization, when required by the child's health and when requested by the child.

(9) Nothing in this section shall be construed to authorize the permanent sterilization of the child, unless such sterilization is the result of or incidental to medically necessary treatment to protect or preserve the life of the child.

(10) For the purpose of obtaining an evaluation or examination or receiving treatment as authorized pursuant to this section, no child alleged to be or found to be a child from a family in need of services or a child in need of services shall be placed in a detention ~~facility~~ home or other program used primarily for the care and custody of children alleged or found to have committed delinquent acts.

(11) The parents or guardian of a child ~~alleged to be or adjudicated a child in need of services in the physical custody of the department~~ remain financially responsible for the cost of medical treatment provided to the child even if one or both of the parents or if the guardian did not consent to the medical treatment. After a hearing, the court may order the parents or guardian, if found able to do so, to reimburse the department or other provider of medical services for treatment provided.

(12) Nothing in this section alters the authority of the department to consent to medical treatment for a child who has been committed to the department pursuant to s. 39.442 (3) and (4) and of whom the department has become the legal custodian.

(13) At any time after the filing of a petition for a child in need of services, when the mental or physical condition, including the blood group, of a parent, guardian, or other person requesting custody of a child is in controversy, the court may order the person to submit to a physical or mental examination by a qualified professional. The order may be made only upon good cause shown and pursuant to notice and procedures as set forth by the Florida Rules of Juvenile Procedure.

~~(14) The department shall adopt rules necessary to implement this section.~~

Section 30. Section 39.44, Florida Statutes, is amended to read:

39.44 Hearings for child-in-need-of-services cases. —

(1) ARRAIGNMENT HEARING. —

(a) When a child has been ~~taken into custody~~ detained by order of the court, an arraignment hearing shall be held within 7 days after the date the child is taken into custody. The hearing shall be held for the child and the parent, guardian, or custodian to admit, deny, or consent to findings that a child is in need of services as alleged in the petition. If the child and the parent, guardian, or custodian admit or consent to the findings in the petition, the court shall proceed as set forth in the Florida Rules of Juvenile Procedure. However, if either the child or the parent, guardian, or custodian denies any of the allegations of the petition, the court shall hold an adjudicatory hearing within 7 days after the date of the arraignment hearing.

(b) When a child is in the custody of the parent, guardian, or custodian, upon the filing of a petition, the clerk shall set a date for an

arraignment hearing within a reasonable time from the date of the filing of the petition. If the child and the parent, guardian, or custodian admit or consent to an adjudication, the court shall proceed as set forth in the Florida Rules of Juvenile Procedure. However, if either the child or the parent, guardian, or custodian denies any of the allegations of child in need of services, the court shall hold an adjudicatory hearing within a reasonable time from the date of the arraignment hearing.

(c) If at the arraignment hearing the child, parent, guardian, or custodian consents or admits to the allegations in the petition, the court shall proceed to hold an adjudicatory hearing at the earliest practicable time that will allow for the completion of a predisposition study.

## (2) ADJUDICATORY HEARING.—

(a) The adjudicatory hearing shall be held as soon as practicable after the petition for a child in need of services is filed and in accordance with the Florida Rules of Juvenile Procedure, but reasonable delay for the purpose of investigation, discovery, or procuring counsel or witnesses shall, whenever practicable, be granted. If the child is in custody, the adjudicatory hearing shall be held within 14 days after the date the child was taken into custody.

(b) Adjudicatory hearings shall be conducted by the judge without a jury, applying the rules of evidence in use in civil cases and adjourning the hearings from time to time as necessary. In a hearing on a petition in which it is alleged that the child is a child in need of services, a preponderance of evidence shall be required to establish that the child is in need of services.

(c) All hearings, except as hereinafter provided, shall be open to the public, and no person shall be excluded therefrom except on special order of the judge who, in his or her discretion, may close any hearing to the public when the public interest or the welfare of the child, in his or her opinion, is best served by so doing. Hearings involving more than one child may be held simultaneously when the several children involved are related to each other or were involved in the same case. The child and the parent, guardian, or custodian of the child may be examined separately and apart from each other.

(3) DISPOSITION HEARING.—At the disposition hearing, if the court finds that the facts alleged in the petition of a child in need of services were proven in the adjudicatory hearing, the court shall receive and consider a predisposition study, which shall be in writing and be presented by an authorized agent of the department or its provider.

(a) The predisposition study shall cover:

1. All treatment and services that the parent, guardian, or custodian and child received.
2. The love, affection, and other emotional ties existing between the parents and the child.
3. The capacity and disposition of the parents to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in lieu of medical care, and other material needs.
4. The length of time that the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.
5. The permanence, as a family unit, of the existing or proposed custodial home.
6. The moral fitness of the parents.
7. The mental and physical health of the family.
8. The home, school, and community record of the child.
9. The reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.
10. Any other factor considered by the court to be relevant.

(b) The predisposition study also shall provide the court with documentation regarding:

1. The availability of appropriate prevention, services, and treatment for the parent, guardian, custodian, and child to prevent the removal of the child from the home or to reunify the child with the parent, guardian, or custodian after removal or to reconcile the problems between the parent, guardian, or custodian and the child;

2. The inappropriateness of other prevention, treatment, and services that were available;

3. The efforts by the department to prevent out-of-home placement of the child or, when applicable, to reunify the parent, guardian, or custodian if appropriate services were available;

4. Whether the services were provided;

5. If the services *and*, treatment, ~~and family mediation~~ were provided, whether they were sufficient to meet the needs of the child and the family and to enable the child to remain at home or to be returned home;

6. If the services *and*, treatment, ~~and family mediation~~ were not provided, the reasons for such lack of provision; and

7. The need for, or appropriateness of, continuing such treatment and services ~~or family mediation~~ if the child remains in the custody of the parent, guardian, or custodian or if the child is placed outside the home.

(c) If placement of the child with anyone other than the child's parent, guardian, or custodian is being considered, the study shall include the designation of a specific length of time as to when custody by the parent, guardian, or custodian shall be reconsidered.

(d) A copy of this predisposition study shall be furnished to the person having custody of the child at the time such person is notified of the disposition hearing.

~~(e) This study shall not be made prior to the adjudication of a child in need of services unless the parents or custodians of the child consent thereto.~~

Any other relevant and material evidence, including other written or oral reports, may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of its probative value, even though not competent in an adjudicatory hearing. Except as provided in paragraph (2)(c), nothing in this section shall prohibit the publication of proceedings in a hearing.

## (4) REVIEW HEARINGS.—

(a) *The court shall hold a review hearing 45 days after the disposition hearing. Additional review hearings may be held as necessary, but no less than 45 days after the date of the last review hearing.*

(b) *At the review hearings, the court shall close the case if the child has substantially complied with the case plans and court orders and no longer requires continued court supervision, subject to the case being reopened. If the child has significantly failed to comply with the case plan or court orders, the child shall continue to be a child in need of services reviewed by the court as needed, but no less than 45 days after the date of the last review hearing.*

Section 31. Section 39.442, Florida Statutes, is amended to read:

## 39.442 Powers of disposition.—

(1) If the court finds that services *and*, treatment, ~~or family mediation~~ have not been provided or utilized by a child or family, the court having jurisdiction of the child shall have the power to *direct the least intrusive and least restrictive disposition, as follows:*

(a) Order the parent, guardian, or custodian and the child to participate in treatment, ~~and services, and any other alternative~~ identified as necessary.

~~(b) Order the parent, guardian, or custodian and the child to participate in family mediation if the parent, guardian, or custodian refused to participate in mediation pursuant to s. 39.428.~~

(b)(e) Order the parent, guardian, or custodian to pay a fine or fee based on the recommendations of the department.

(2) When any child is adjudicated by the court to be a child in need of services, the court having jurisdiction of the child and parent, guardian, or custodian shall have the power, by order, to:

(a) Place the child under the supervision of the department's contracted provider of programs and services for children in need of services and families in need of services. "Supervision," for the purposes of this section, means services as defined by the contract between the department and the provider. Place the child under the protective supervision of an authorized agent of the department, either in the child's own home or, the prospective custodian being willing, in the home of a relative of the child or in some other suitable place under such reasonable conditions as the court may direct. Protective supervision shall be regularly reviewed by the court and shall continue until the court terminates it.

(b) Place the child in the temporary legal custody of an adult relative willing to care for the child.

(c) Commit the child to a licensed child-caring agency willing to receive the child and to provide services without compensation from the department. Continued commitment to the licensed child-caring agency, as well as all other proceedings under this section pertaining to the child, shall additionally be governed by the provisions of s. 400.168.

(d) Commit the child to the temporary legal custody of the Department. Such commitment shall invest in the department all rights and responsibilities of a legal custodian. The department shall not return any child to the physical care and custody of the person from whom the child was removed, except for short visitation periods, without the approval of the court. The term of such commitment shall continue until terminated by the court. After the child is committed to the temporary custody of the department, all further proceedings under this section shall additionally be governed by the provisions of parts III and V.

(d) Order the child, and, if the court finds it appropriate, the parent, guardian, or custodian of the child, to render community service in a public service program.

(3) When any child is adjudicated by the court to be a child in need of services and temporary legal custody of the child has been placed with an adult relative willing to care for the child, a licensed child-caring agency, the Department of Juvenile Justice, or the Department of Health and Rehabilitative Services, the court shall order the natural or adoptive parents of such child, including or the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such child's estate if possessed of assets which under law may be disbursed for the care, support, and maintenance of such child, to pay child support to the adult relative caring for the child, the licensed child-caring agency, the Department of Juvenile Justice, or the Department of Health and Rehabilitative Services. When such order affects the guardianship estate, a certified copy of such order shall be delivered to the judge having jurisdiction of such guardianship estate. If the court determines that the parent is unable to pay support, placement of the child shall not be contingent upon issuance of a support order.

(4) All payments of fees made to the department pursuant to this part, or child support payments made to the department pursuant to subsection (5), shall be deposited in the General Revenue Fund. In cases in which the child is placed in foster care with the Department of Health and Rehabilitative Services, such child support payments shall be deposited in the Foster Care, Group Home, Developmental Training, and Supported Employment Programs Trust Fund. If the court commits the child to the temporary legal custody of the department, the disposition order shall include a determination as to whether the department has made a reasonable effort to prevent or eliminate the need for the removal of the child from the home pursuant to s. 39.44(3)(a).

(7)(5) In carrying out the provisions of this part, the court shall may order the child, family, parent, guardian, or custodian of a child who is found to be a child in need of services to participate in family counseling and other professional counseling activities or other alternatives deemed necessary for the rehabilitation of the child.

(8)(6) The participation and cooperation of the family, parent, guardian, or custodian, and the child with court-ordered services, treatment,

or community service are mandatory, not merely voluntary. The court may use its contempt powers to enforce its order. With respect to a child who is the subject of a performance agreement under part V, the court shall return the child to the custody of the natural parents upon expiration of the agreement if the parents have substantially complied with the agreement.

(7) The court may at any time enter an order ending its jurisdiction over any child, except that, when a child has been returned to the parents pursuant to subsection (6), the court shall not terminate its jurisdiction over the child until 6 months after the return. Based on a report of the department or agency and any other relevant factors, the court shall then determine whether its jurisdiction should be continued or terminated in such a case. If its jurisdiction is to be terminated, the court shall enter an order to that effect.

Section 32. Section 39.445, Florida Statutes, is renumbered as section 39.4441, Florida Statutes.

Section 33. Section 39.443, Florida Statutes, is renumbered as section 39.4451, Florida Statutes.

Section 34. Section 39.05841, Florida Statutes, is created to read:

39 05841 Findings of fact; vocational/work training programs.—

(1) It is the finding of the Legislature that vocational work programs of the Department of Juvenile Justice are uniquely different from other programs operated or conducted by other departments in that it is essential to the state that the work programs provide juveniles with useful activities that can lead to meaningful employment after release in order to assist in reducing the return of juveniles to the system.

(2) It is further the finding of the Legislature that the mission of a juvenile vocational work program is, in order of priority:

(a) To provide a joint effort between the department, the juvenile work programs, and other vocational training programs to reinforce relevant education, training, and postrelease job placement, and help reduce recommitment.

(b) To serve the security goals of the state through the reduction of idleness of juveniles and the provision of an incentive for good behavior in residential commitment facilities.

(3) It is further the finding of the Legislature that a program which duplicates as closely as possible free-work production and service operations in order to aid juveniles in adjustment after release and to prepare juveniles for gainful employment is in the best interest of the state, juveniles, and the general public.

Section 35. Section 39.05842, Florida Statutes, is created to read:

39.05842 Requirement of labor; civil rights; juveniles not employed or entitled to compensation insurance benefits.—

(1) The department may require juveniles placed in a high-risk residential, maximum-risk residential, or a serious/habitual offender program to participate in a vocational work program. All policies developed by the department relating to this requirement must be consistent with applicable federal, state, and local labor laws and standards, including all laws relating to child labor.

(2) Nothing in this section is intended to restore, in whole or in part, the civil rights of any juvenile. No juvenile compensated under this section shall be considered as an employee of the state or the department, nor shall such juvenile come within any other provision of the Workers' Compensation Act.

Section 36. Section 39.05843, Florida Statutes, is created to read:

39.05843 Juvenile vocational work program objectives.—In adopting or modifying master plans for juvenile work programs, and in the administration of the Department of Juvenile Justice, it shall be the objective of the department to develop:

(1) Attitudes favorable to work, the work situation, and a law-abiding life in each juvenile employed in the juvenile work program.

(2) Training opportunities that are reasonably broad, but which develop specific work skills.

(3) Programs that motivate juveniles to use their abilities. Juveniles who do not adjust to these programs shall be reassigned.

(4) Training programs which will be of mutual benefit to all governmental jurisdictions of the state by reducing the costs of government to the taxpayers and which integrate all instructional programs into a unified curriculum suitable for all juveniles, but taking account of the different abilities of each juvenile.

(5) A logical sequence of vocational training, employment by the juvenile vocational work programs, and postrelease job placement for juveniles participating in juvenile work programs.

Section 37. Section 39.05844, Florida Statutes, is created to read:

39.05844 Operational guidelines for the juvenile vocational work programs.—

(1) The Department of Juvenile Justice shall establish guidelines for the operation of juvenile vocational work programs, which shall include the following procedures:

(a) The education, work experience, emotional and mental abilities, and physical capabilities of the juvenile and the duration of the term of placement imposed on the juvenile are to be analyzed before assignment of the inmate into the various processes best suited for training.

(b) When feasible, the department shall attempt to obtain training credit for a juvenile seeking apprenticeship status or a high school diploma or its equivalent.

(c) The juvenile may begin in a general work skills program and progress to a specific work skills training program, depending upon the ability, desire, and work record of the juvenile.

(d) Modernization and upgrading of equipment and facilities should include greater automation and improved production techniques to expose juveniles to the latest technological procedures to facilitate their adjustment to real work situations.

(2) Evaluations of juvenile work programs shall be conducted according to the following guidelines:

(a) Systematic evaluations and quality assurance monitoring shall be implemented, in accordance with ss. 39.003(4) and 39.021(10), to determine whether the juvenile vocational work programs are related to successful postrelease adjustments.

(b) Operations and policies of work programs shall be reevaluated to determine if they are consistent with their primary objectives.

(3) The department shall seek the advice of private labor and management to:

(a) Assist its work programs in the development of statewide policies aimed at innovation and organizational change.

(b) Obtain technical and practical assistance, information, and guidance.

(c) Encourage the cooperation and involvement of the private sector.

Section 38. Section 39.05845, Florida Statutes, is created to read:

39.05845 Juvenile work programs.—

(1) The Department of Juvenile Justice may adopt and put into effect an agricultural and industrial production and marketing program to provide training facilities for persons placed in serious/habitual offender, high-risk residential, and maximum-risk residential programs and facilities under the control and supervision of the department. The emphasis of this program shall be to provide juveniles with useful work experience and appropriate job skills that will facilitate their reentry into society and provide an economic benefit to the public and the department through effective utilization of juveniles.

(2) The department is authorized to contract with the private sector for substantial involvement in a juvenile industry program which in-

cludes the operation of a direct private sector business within a juvenile facility and the hiring of juvenile workers. The purposes and objectives of this program shall be to:

(a) Increase benefits to the general public by reimbursement to the state for a portion of the costs of juvenile residential care.

(b) Provide purposeful work for juveniles as a means of reducing tensions caused by confinement.

(c) Increase job skills.

(d) Provide additional opportunities for rehabilitation of juveniles who are otherwise ineligible to work outside the facilities, such as maximum security juveniles.

(e) Develop and establish new models for juvenile facility-based businesses which create jobs approximating conditions of private sector employment.

(f) Draw upon the economic base of operations for disposition to the Crimes Compensation Trust Fund.

(g) Substantially involve the private sector with its capital, management skills, and expertise in the design, development, and operation of businesses.

(3) Notwithstanding any other law to the contrary, including s. 440.15(9), private sector employers shall provide juveniles participating in juvenile work programs under subsection (2) with workers' compensation coverage, and juveniles shall be entitled to the benefits of such coverage. Nothing in this subsection shall be construed to allow juveniles to participate in unemployment compensation benefits.

Section 39. Present subsection (12) of section 39.021, Florida Statutes, is amended and renumbered as subsection (14) and new subsections (12) and (13) are added to that section to read:

39.021 Administering the juvenile justice continuum.—

(12) *The department shall annually collect and report cost data for every program operated or contracted by the department. The cost data shall conform to a format approved by the department and the Legislature. Uniform cost data shall be reported and collected for state-operated and contracted programs so that comparisons can be made among programs. The department shall ensure that there is accurate cost accounting for state-operated services including market-equivalent rent and other shared cost. The cost of the educational program provided to a residential facility shall be reported and included in the cost of a program. The department shall submit an annual cost report to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, the appropriate substantive and appropriations committees of each house of the Legislature, and the Governor, no later than February 1 of each year. Cost-benefit analysis for educational programs will be developed and implemented in collaboration with the Department of Education and will use current data sources whenever possible.*

(13) *The Department of Juvenile Justice in consultation with the Juvenile Justice Advisory Board and providers shall develop a cost-benefit model and apply the model to each commitment program. Program recommitment rates shall be a component of the model. The cost-benefit model shall compare program costs to benefits to produce a cost-benefit ratio. A report ranking commitment programs based on cost-benefit ratios shall be submitted to the appropriate substantive and appropriations committees of each house of the Legislature, no later than December 31 of each year. It is the intent of the Legislature that continual development efforts take place to improve the validity and reliability of the cost-benefit model.*

(14)(12)(a) The department shall operate a statewide, regionally administered system of detention services for children, in accordance with a comprehensive plan for the regional administration of all detention services in the state. The plan must provide for the maintenance of adequate availability of detention services for all counties. The plan must cover the department's 15 service districts, with each service district having a secure facility and nonsecure and home detention programs, and the plan may be altered or modified by the Department of Juvenile Justice as necessary.

(b) The department shall adopt rules prescribing standards and requirements with reference to:

1. The construction, equipping, maintenance, staffing, programming, and operation of detention facilities;
2. The treatment, training, and education of children confined in detention facilities;
3. The cleanliness and sanitation of detention facilities;
4. The number of children who may be housed in detention facilities per specified unit of floor space;
5. The quality, quantity, and supply of bedding furnished to children housed in detention facilities;
6. The quality, quantity, and diversity of food served in detention facilities and the manner in which it is served;
7. The furnishing of medical attention and health and comfort items in detention facilities; and
8. The disciplinary treatment administered in detention facilities.

(c) The rules must provide that the time spent by a child in a detention facility must be devoted to educational training and other types of self-motivation and development. The use of televisions, radios, and audioplayers shall be restricted to educational programming. However, the manager of a detention facility may allow noneducational programs to be used as a reward for good behavior. Exercise must be structured and calisthenic and aerobic in nature and may include weight lifting.

(d) Each programmatic, residential, and service contract or agreement entered into by the department must include a cooperation clause for purposes of complying with the department's quality assurance requirements, cost accounting requirements, and the program outcome-evaluation requirements.

Section 40. Paragraph (d) of subsection (4) of section 230.2316, Florida Statutes, is amended to read:

230.2316 Dropout prevention.—

(4) **STUDENT ELIGIBILITY AND PROGRAM CRITERIA.**—All programs funded pursuant to the provisions of this section shall be positive and shall reflect strong parental and community involvement. In addition, specific programs shall meet the following criteria:

(d) *Educational services in Department of Health and Rehabilitative Services* ~~youth services~~ programs.—

1. The student is assigned to a ~~detention, commitment, or rehabilitation~~ program provided pursuant to chapter 39 which is sponsored by a state or community-based agency or is operated or contracted for by the Department of Health and Rehabilitative Services.

2. Programs shall provide intensive counseling, behavior modification, and therapy in order to meet the student's individual needs. Programs may be residential or nonresidential.

3. Any student served in a *Department of Health and Rehabilitative Services* ~~youth services~~ program shall be provided the equivalent of instruction provided for the definition of a "school day" pursuant to s. 228.041. However, the educational services may be provided at times of the day most appropriate for the ~~youth services~~ program.

4. A program is provided which shall consist of appropriate basic academic, vocational, or exceptional curricula and related services which support the rehabilitation program goals and which may lead to completion of the requirements for receipt of a high school diploma or its equivalent, provided that the educational component of youth services programs of less than 40 days' duration which take place in a park or wilderness setting may be limited to tutorial activities and vocational employability skills.

5. Participation in the program by students of compulsory school attendance age as provided for in s. 232.01 shall be mandatory.

6. Districts are encouraged to implement programs that assist students in the transition between dismissal from *Department of Health and Rehabilitative Services* ~~youth services~~ programs and school reentry.

7. A school district may contract with a private nonprofit entity or a state or local government agency for the provision of educational programs to clients of the Department of Health and Rehabilitative Services and may generate state funding through the Florida Education Finance Program for such students. ~~School districts shall submit to the Department of Education evidence of cooperative agreements with the Deputy Secretary for Juvenile Justice, in order to receive funding.~~

Section 41. Section 230.23161, Florida Statutes, is created to read:

230.23161 Educational services in Department of Juvenile Justice programs.—

(1) Students participating in a detention, commitment, or rehabilitation program pursuant to chapter 39 which is sponsored by a community-based agency or is operated or contracted for by the Department of Juvenile Justice shall receive educational programs according to rules of the State Board of Education. These students shall be eligible for services afforded to students enrolled in programs pursuant to s. 230.2316 and all corresponding State Board of Education Rules.

(2) The district school board of the county in which the residential or nonresidential care facility is located shall provide an appropriate program of instruction and special education services. The district school board shall make provisions for each student to participate in basic, vocational, and exceptional student programs as appropriate. Each program shall be conducted according to applicable law providing for the operation of public schools and rules of the state board.

(3) A school day for any student serviced in a Department of Juvenile Justice program shall be the same as specified in s. 228.041(13). Educational services may be provided at times of the day most appropriate for the program. School programming in juvenile justice detention, commitment, and rehabilitation programs shall be made available during the regular school year and the summer school by the local school district.

(4) The educational program shall consist of appropriate basic academic, vocational, or exceptional curricula and related services which support the treatment goals and reentry and which may lead to completion of the requirements for receipt of a high school diploma or its equivalent. If the duration of a program is less than 40 days, the educational component may be limited to tutorial activities and vocational employability skills.

(5) Participation in the program by students of compulsory school attendance age as provided for in s. 232.01 shall be mandatory. All students of noncompulsory school-attendance age who have not received a high school diploma or its equivalent shall participate in the educational program.

(6) The school district shall make every effort to recruit and train teachers who are interested, qualified, and experienced and to provide students in juvenile justice programs with a wide range of educational programs and opportunities.

(7) A school district may contract with a private provider for the provision of educational programs to youths placed with the Department of Juvenile Justice and may generate local, state, and federal funding, including funding through the Florida Education Finance Program for such students.

(8) The local school district shall fund the education program in a Department of Juvenile Justice facility at the same or higher level of funding for equivalent students in the county school system based on the funds generated by state funding through the Florida Education Finance Program for such students. It is the intent of the Legislature that the school district maximize its available local, state, and federal funding to a juvenile justice program.

(9) Each school district shall negotiate a cooperative agreement with the Department of Juvenile Justice on the delivery of educational services to youths under the jurisdiction of the department. Such agreement must include, but is not limited to:

(a) Roles and responsibilities of each agency, including the roles and responsibilities of contract providers.



(b) Administrative issues including procedures for sharing information.

(c) Allocation of resources including maximization of local, state, and federal funding.

(d) Procedures for educational evaluation for educational exceptionalities and special needs.

(e) Curriculum and delivery of instruction.

(f) Classroom management procedures and attendance policies.

(g) Procedures for provision of qualified instructional personnel, whether supplied by the school district or provided under contract by the provider, and for performance of duties while in a juvenile justice setting.

(h) Provisions for improving skills in teaching and working with juvenile delinquents.

(i) Transition plans for students moving into and out of juvenile facilities.

(j) Procedures and timelines for the timely documentation of credits earned and transfer of student records.

(k) Methods and procedures for dispute resolution.

(l) Provisions for ensuring the safety of education personnel and support for the agreed-upon education program.

(m) Strategies for correcting any deficiencies found through the quality assurance process.

(10) The cooperative agreement pursuant to subsection (9) does not preclude the development of an operating agreement or contract between the school district and the provider for each juvenile justice program in the school district where educational programs are to be provided. Any of the matters which must be included in the agreement pursuant to subsection (9) may be defined in the operational agreements or operating contracts rather than in the cooperative agreement if agreed to by the Department of Juvenile Justice. Nothing in this section or in a cooperative agreement shall be construed to require the school board to provide more services than can be supported by the funds generated by students in the juvenile justice programs.

(11) The Department of Education in consultation with the Department of Juvenile Justice shall establish standards and a comprehensive quality assurance review process and schedule for the evaluation of the educational component in juvenile justice programs.

(12) The district school board shall not be charged any rent, maintenance, utilities, or overhead on such facilities. Maintenance, repairs, and remodeling of existing facilities shall be provided by the Department of Juvenile Justice.

(13) When additional facilities are required, the district school board and the Department of Juvenile Justice shall agree on the appropriate site based on the instructional needs of the students. When the most appropriate site for instruction is on district school board property, a special capital outlay request shall be made by the commissioner in accordance with s. 235.41. When the most appropriate site is on state property, state capital outlay funds shall be requested by the Department of Juvenile Justice provided by s. 216.043 and shall be submitted as specified by s. 216.023. Any instructional facility to be built on state property shall have educational specifications jointly developed by the school district and the Department of Juvenile Justice and approved by the Department of Education. The size of space and occupant design capacity criteria as provided by state board rules shall be used for remodeling or new construction whether facilities are provided on state property or district school board property.

(14) The parent or guardian of exceptional students shall have the due process rights provided for in chapter 232.

(15) Department of Juvenile Justice detention and commitment programs may be designated as second chance schools pursuant to s. 230.2316(3)(e). Admission to such programs shall be governed by part II of chapter 39.

(16) The Department of Education and Department of Juvenile Justice, after consultation with local providers, shall report annually to the Legislature on the progress towards developing effective educational programs for juvenile delinquents including the amount of funding provided by local school districts to juvenile justice programs, the amount retained for administration, the status of the development of cooperative agreements, and the results of the quality assurance reviews including recommendations for system improvement.

(17) The Department of Education shall have the authority to adopt any rules necessary to implement the provisions of this section, including uniform curriculum, funding, and second chance schools. Such rules shall require the minimum amount of paperwork and reporting necessary to comply with this act. By January 1, 1997, current rules regarding this section shall be revised.

Section 42. Paragraph (c) of subsection (10) of section 39.021, Florida Statutes, is amended to read:

39.021 Administering the juvenile justice continuum.—

(10)

(c) The department shall:

1. Establish a comprehensive quality assurance system for each program operated by the department or operated by a provider under contract with the department. Each contract entered into by the department must provide for quality assurance.

2. Provide operational definitions of and criteria for quality assurance for each specific program component.

3. Establish quality assurance goals and objectives for each specific program component.

4. Establish the information and specific data elements required for the quality assurance program.

5. Develop a quality assurance manual of specific, standardized terminology and procedures to be followed by each program.

6. Evaluate each program operated by a provider under a contract with the department and establish minimum thresholds for each program component. If a provider fails to meet the established minimum thresholds, such failure shall cause the department to cancel the provider's contract unless the provider achieves compliance with minimum thresholds within 6 months or unless there are documented extenuating circumstances. In addition, the department may not contract with the same provider for the canceled service for a period of 12 months.

The department shall submit an annual report to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, the appropriate substantive and appropriations committees of each house of the Legislature, and the Governor, no later than *February 1* ~~December 31~~ of each year. The annual report must contain, at a minimum, for each specific program component: a comprehensive description of the population served by the program; a specific description of the services provided by the program; cost; a comparison of expenditures to federal and state funding; immediate and long-range concerns; and recommendations to maintain, expand, improve, modify, or eliminate each program component so that changes in services lead to enhancement in program quality. The department's inspector general shall ensure the reliability and validity of the information contained in the report.

Section 43. Paragraph (f) is added to subsection (6) of section 39.025, Florida Statutes, to read:

39.025 District juvenile justice boards.—

(6) DISTRICT JUVENILE JUSTICE BOARDS.—

(f) *The secretary shall hold quarterly meetings with chairpersons of the district juvenile justice board in order to:*

1. Advise juvenile justice board chairs of statewide juvenile justice issues and activities.

2. *Provide feedback on district budget priorities.*
3. *Obtain input into the strategic planning process.*
4. *Discuss program development, program implementation, and quality assurance.*

Section 44. Subsection (4) of section 216.0172, Florida Statutes, is amended to read:

216.0172 Schedule for submission of performance-based program budgets.—In order to implement the provisions of chapter 94-249, Laws of Florida, state agencies shall submit performance-based program budgets for programs approved pursuant to s. 216.0166 to the Executive Office of the Governor and the Legislature based on the following schedule:

(4) By September 1, 1997, for the 1998-1999 fiscal year, by the following:

- (a) Department of Banking and Finance.
- (b) Department of Corrections.
- (c) Department of Education (Public Schools).
- (d) Department of Environmental Protection.
- (e) Executive Office of the Governor.
- (f) Department of Health and Rehabilitative Services.
- (g) Department of Legal Affairs.
- (h) *Department of Juvenile Justice.*

Section 45. Except as otherwise provided herein, this act shall take effect October 1, 1996.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to juvenile justice; amending s. 39.003, F.S.; providing that the Juvenile Justice Advisory Board is administratively placed under the Joint Legislative Management Committee; revising appointment process; clarifying language; requiring submission of the board's workplan and reports to the Joint Legislative Auditing Committee and the Auditor General; providing that the board shall make advisory recommendations to the Legislature, Governor, and department; providing for access by the board to records, files, and reports material to its duties that are in the custody of the Department of Health and Rehabilitative Services; amending s. 39.01, F.S.; revising definitions with respect to juvenile proceedings; defining "child eligible for an intensive residential treatment program for offenders less than 13 years of age" to expand admission criteria for intensive residential treatment programs; redefining "restrictiveness level" to provide applicability of specified felony penalties for children who escape from maximum-risk residential programs; redefining "serious or habitual juvenile offender" to expand admission criteria for serious or habitual juvenile offender programs; reenacting s. 39.052(3)(a) and (6), F.S., relating to hearings, s. 39.058(3)(e), F.S., relating to serious or habitual juvenile offenders, s. 39.061, F.S., relating to escapees from secure detention or residential commitment facility, and s. 784.075, F.S., relating to battery on detention or commitment facility staff, to incorporate said amendment in references; creating s. 39.0517, F.S.; creating judicial procedures for determination of incompetency and treatment or training of juvenile offenders who are incompetent for purposes of delinquency proceedings; amending s. 39.044, F.S.; requiring that detention orders include specific instructions for release of the child in accordance with statutory time limits; requiring hearings to determine the need for continued detention following grants of continuances for cause; requiring the court to order the delivery of a child to a jail or other adult facility in certain circumstances; amending s. 790.22, F.S., relating to possession of firearms by minors, to conform to the act; reenacting s. 39.052(1)(a), F.S., relating to adjudicatory hearings, to incorporate the amendment to s. 39.044, F.S., in a reference thereto; amending s. 39.0581, F.S.; expanding admission criteria for maximum-risk residential programs; amending s. 39.0582, F.S.; providing for intensive residential treatment programs for offenders less than 13 years of age; lowering the age at which juvenile offenders may be placed in such programs; amending s. 39.0583, F.S.,

relating to prerequisites for commitment to intensive residential treatment programs; providing conforming language relating to the lowered age for such commitment of juvenile offenders; amending s. 39.0584, F.S., relating to commitment programs for juvenile felony offenders; lowering the age at which a youth may be placed in a serious or habitual juvenile offender program, intensive residential treatment program, or maximum-risk program; amending s. 39.074, F.S.; providing legislative intent to expedite the construction of state juvenile justice facilities; prescribing authority of the Department of Juvenile Justice and guidelines with respect to lease-purchase agreements and land acquisitions for such facilities; amending s. 253.025, F.S., relating to acquisition of state lands for specified purposes; authorizing the Department of Juvenile Justice to enter option agreements for land acquisition for juvenile facility sites; amending s. 287.155, F.S., relating to motor vehicle purchases by specified departments; adding references to the Department of Juvenile Justice and deleting obsolete language; repealing s. 6 of ch. 94-209, Laws of Florida, relating to a youthful offender study; allowing for juvenile justice appropriations to be used for certain startup costs of facilities or programs; transferring the Juvenile Justice Advisory Board by a type one transfer from the Executive Office of the Governor to the Legislature under the Joint Legislative Management Committee; allowing for juvenile justice appropriations to be used for certain startup costs of facilities or programs; amending s. 39.024, F.S.; requiring the Juvenile Justice Standards and Training Commission within the Department of Juvenile Justice to establish a certifiable juvenile justice training program; providing for a competency-based examination for a basic, advanced, or career development training program for juvenile justice personnel; revising or reorganizing specified provisions in pt. IV of ch. 39, F.S., relating to families in need of services and children in need of services; amending s. 39.42, F.S.; revising legislative intent with respect to pt. IV of ch. 39, F.S.; authorizing the Department of Juvenile Justice to contract with a provider to provide services and programs for families in need of services and children in need of services; amending s. 39.421, F.S.; revising guidelines and procedures with respect to taking into custody a child alleged to be from a family in need of services or to be a child in need of services; amending s. 39.422, F.S.; revising guidelines, procedures, and time limits relating to shelter placement of such child; amending s. 39.423, F.S.; revising provisions relating to intake of such child; amending s. 39.424, F.S.; revising departmental authority with respect to fees for child or family services and treatment; amending s. 39.426, F.S.; revising composition of the case staffing committee for a family in need of services or a child in need of services; repealing ss. 39.427, 39.428, and 39.429, F.S., relating to referral to diversion mediation, diversion mediation programs, and disposition of a diversion mediation case; amending s. 39.436, F.S.; revising conditions for filing a petition for a child in need of services; renumbering s. 39.4365, F.S., relating to referral of child-in-need-of-services cases to mediation; amending s. 39.437, F.S.; providing for court jurisdiction in child-in-need-of-services proceedings to attach to the parent, custodian, or legal guardian; amending s. 39.438, F.S.; revising provisions with respect to responses to such petition and representation of parties; amending and renumbering s. 39.439, F.S., relating to treatment of a child and examination of a parent, guardian, or person requesting custody of the child; deleting provisions relating to departmental custody of a child in need of certain treatment; providing for developmental disability evaluation of a child by certain representatives of the Department of Health and Rehabilitative Services, rather than the department; amending s. 39.44, F.S., relating to hearings on petitions for child-in-need-of-services cases; providing guidelines and time limits for review hearings; amending s. 39.442, F.S.; revising court powers of disposition; authorizing the court to order the child or the child's parent, guardian, or custodian to render community service; defining "supervision"; providing for deposit of certain fees and payments; renumbering ss. 39.443 and 39.445, F.S., relating to oaths, records, and confidential information and appeal; creating ss. 39.05841-39.05845, F.S., relating to vocational work programs of the Department of Juvenile Justice; providing for mandatory participation of certain high-risk juveniles; providing intent, objectives, and guidelines; providing for training facilities as part of an agricultural and industrial production and marketing program; amending s. 39.021, F.S.; requiring certain cost accounting with respect to Department of Juvenile Justice Programs; providing for specified cost reports to the Legislature by the Department of Juvenile Justice; changing the date of a report; amending s. 230.2316, F.S.; providing for educational services in Department of Health and Rehabilitative Services programs; creating s. 230.23161, F.S.; providing for educational services in Department of Juvenile Justice programs; prescribing responsibilities of school districts; providing for certain reports to the Legislature by the Department of Juvenile Justice and Department of Education; providing for adoption

of rules and revisions thereto by the Department of Education; amending s. 39.025, F.S.; requiring meetings; amending s. 216.0172, F.S.; providing a date for department budgets; providing effective dates.

On motion by Senator Bankhead, by two-thirds vote **SB 792** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37      Nays—None

Consideration of **CS for SB 536** was deferred.

**SJR 58**—A joint resolution proposing an amendment to Section 8, Article IV of the State Constitution, relating to clemency.

*Be It Resolved by the Legislature of the State of Florida:*

That the amendment to Section 8 of Article IV of the State Constitution set forth below is agreed to and shall be submitted to the electors of this state for approval or rejection at the general election to be held in November 1996, and, if approved, shall take effect January 7, 1997:

#### ARTICLE IV

#### CLEMENCY

##### SECTION 8. Clemency.—

(a) Except in cases of treason and in cases where impeachment results in conviction, the governor may, by executive order filed with the secretary of state, suspend collection of fines and forfeitures, grant reprieves not exceeding sixty days and, with the approval of three members of the cabinet, grant full or conditional pardons, restore civil rights, commute punishment, and remit fines and forfeitures for offenses.

(b) In cases of treason the governor may grant reprieves until adjournment of the regular session of the legislature convening next after the conviction, at which session the legislature may grant a pardon or further reprieve; otherwise the sentence shall be executed.

(c) There may be created by law a parole and probation commission with power to supervise persons on probation and to grant paroles or conditional releases to persons under sentences for crime. The qualifications, method of selection and terms, not to exceed six years, of members of the commission shall be prescribed by law.

(d) *All state prisoners lawfully sentenced to a term of years shall serve at least 85 percent of their term of imprisonment, unless granted pardon or clemency. Parole, conditional release, or any mechanism of sentence reduction may reduce the term-of-years sentence by no more than 15 percent. State prisoners sentenced to life imprisonment shall be incarcerated for the rest of their natural lives, unless granted pardon or clemency.*

**BE IT FURTHER RESOLVED** that the following statement be placed on the ballot:

#### CONSTITUTIONAL AMENDMENT

#### ARTICLE IV, SECTION 8

**LENGTH OF SENTENCE.**—Proposing an amendment, effective January 7, 1997, to the State Constitution which, except in cases of pardon or clemency, requires that state prisoners serve at least 85 percent of their terms of imprisonment; prohibits any sentence reduction by more than 15 percent; and requires state prisoners sentenced to life imprisonment to be incarcerated for the rest of their natural lives, unless granted pardon or clemency.

—was read the second time in full. On motion by Senator Crist, by two-thirds vote **SJR 58** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and was certified to the House. The vote on passage was:

Yeas—38      Nays—None

**SB 1860**—A bill to be entitled An act relating to post-delivery health care for mothers and their newborn infants; amending ss. 627.6406, 627.6574, 641.31, F.S.; requiring certain health insurance policies and health maintenance contracts to provide coverage for post-delivery care for a mother and her newborn infant if they qualify for early discharge from a health care facility; specifying services that must be included; defining the term “early discharge”; requiring the Agency for Health Care Administration to conduct a study to evaluate the clinical effects of shorter stays in the hospital for maternity care; specifying the subject matter of the study; requiring a report; providing applicability; providing an effective date.

—was read the second time by title.

The Committee on Banking and Insurance recommended the following amendment which was moved by Senator McKay:

**Amendment 1 (with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Section 627.6406, Florida Statutes, is amended to read:

627.6406 Maternity care.—

(1) Any policy of health insurance that provides coverage for maternity care shall also cover the services of certified nurse-midwives and midwives licensed pursuant to chapter 467, and the services of birth centers licensed under ss. 383.30-383.335.

(2) *An insurer issuing a health insurance policy which provides maternity and newborn coverage may not limit coverage for the length of a maternity and newborn stay in a hospital or for followup care outside of a hospital to any time period that is less than that determined to be medically necessary, consistent with the 1992 Guidelines for Perinatal Care of the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists, by the treating obstetrical care provider or the pediatric care provider.*

(3) *Nothing in this section affects any agreement between an insurer and a hospital or other health care provider with respect to reimbursement for health care services provided or prohibits appropriate utilization review by an insurer.*

(4) *Any policy of health insurance that provides coverage, benefits, or services for maternity or newborn care must provide coverage for post-delivery care for a mother and her newborn infant. The postdelivery care must include a postpartum assessment and newborn assessment and may be provided at the hospital, at the attending physician's office, at an outpatient maternity center, or in the home by a qualified licensed health care professional trained in mother and baby care. The services must include physical assessment of the newborn and the performance of any medically necessary clinical tests and immunizations in keeping with prevailing medical standards.*

(5) *An insurer subject to subsection (1) shall communicate active case questions and concerns regarding postdelivery care directly to the treating physician or hospital in written form, in addition to other forms of communication. Such insurers shall also use a process which includes a written protocol for utilization review and quality assurance.*

Section 2. Section 627.6574, Florida Statutes, is amended to read:

627.6574 Maternity care.—

(1) Any group, blanket, or franchise policy of health insurance that provides coverage for maternity care shall also cover the services of certified nurse-midwives and midwives licensed pursuant to chapter 467, and the services of birth centers licensed under ss. 383.30-383.335.

(2) *Any group, blanket, or franchise policy of health insurance that provides maternity and newborn coverage may not limit coverage for the length of a maternity and newborn stay in a hospital or for followup care outside of a hospital to any time period that is less than that determined to be medically necessary, consistent with the 1992 Guidelines for Perinatal Care of the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists, by the treating obstetrical care provider or the pediatric care provider.*

(3) *Nothing in this section affects any agreement between an insurer and a hospital or other health care provider with respect to reimburse-*

ment for health care services provided or prohibits appropriate utilization review by an insurer.

(4) Any group, blanket, or franchise policy of health insurance that provides coverage, benefits, or services for maternity or newborn care must provide coverage for postdelivery care for a mother and her newborn infant. The postdelivery care must include a postpartum assessment and newborn assessment and may be provided at the hospital, at the attending physician's office, at an outpatient maternity center, or in the home by a qualified licensed health care professional trained in mother and baby care. The services must include physical assessment of the newborn and the performance of any medically necessary clinical tests and immunizations in keeping with prevailing medical standards.

(5) An insurer subject to subsection (1) shall communicate active case questions and concerns regarding postdelivery care directly to the treating physician or hospital in written form, in addition to other forms of communication. Such insurers shall also use a process which includes a written protocol for utilization review and quality assurance.

Section 3. Subsection (18) of section 641.31, Florida Statutes, is amended to read:

**641.31 Health maintenance contracts.—**

(18)(a) Health maintenance contracts which provide coverage, benefits, or services for maternity care shall provide, as an option to the subscriber, the services of nurse-midwives and midwives licensed pursuant to chapter 467, and the services of birth centers licensed pursuant to ss. 383.30-383.335, if such services are available within the service area.

(b) Any health maintenance contract which provides maternity or newborn coverage may not limit coverage for the length of a maternity or newborn stay in a hospital or for followup care outside of a hospital to any time period that is less than that determined to be medically necessary, consistent with the 1992 Guidelines for Perinatal Care of the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists, by the treating obstetrical care provider or the pediatric care provider.

(c) Nothing in this section affects any agreement between a health maintenance organization and a hospital or other health care provider with respect to reimbursement for health care services provided or prohibits appropriate utilization review by a health maintenance organization.

(d) Any health maintenance contract that provides coverage, benefits, or services for maternity or newborn care must provide coverage for postdelivery care for a mother and her newborn infant. The postdelivery care must include a postpartum assessment and newborn assessment and may be provided at the hospital, at the attending physician's office, at an outpatient maternity center, or in the home by a qualified licensed health care professional trained in mother and baby care. The services must include physical assessment of the newborn and the performance of any medically necessary clinical tests and immunizations in keeping with prevailing medical standards.

(e) A health maintenance organization subject to paragraph (b) shall communicate active case questions and concerns regarding postdelivery care directly to the treating physician or hospital in written form, in addition to other forms of communication. Such organization shall also use a process which includes a written protocol for utilization review and quality assurance.

Section 4. The Agency for Health Care Administration, in collaboration with insurance, hospital, and physician providers, obstetrical care providers, pediatric care providers, and birth centers, shall conduct a study to evaluate the clinical effects of shorter stays in the hospital for maternity care and shall consider the data on actual volume of early discharge; payor policies; the health effect on and complication rates in the infants; the health effects, both physical and psychological, on the mother; the extent of opportunity for maternal and infant-care education; the physical and psychological effects on other family members; the extent of opportunity for maternal and child psychosocial assessment; the extent of followup care provided to mothers and newborns; the volume of readmissions and catastrophic readmissions; and the costs associated with early discharge. The report shall also assess the impact of this act on each of these factors and effects. The agency shall report its findings to the President of the Senate, the Speaker of the House of

Representatives, and the chairmen of the Health Care Committees of the Senate and the House of Representatives by January 1, 1998.

Section 5. The provisions of this act fulfill an important state interest.

Section 6. This act shall take effect October 1, 1996, and shall apply to policies and contracts issued or renewed on or after that date.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to maternity care; amending ss. 627.6406, 627.6574, and 641.31, F.S.; prohibiting certain health insurance policies and health maintenance contracts from imposing certain limitations on coverage for hospital maternity stays or followup care outside of a hospital; requiring such policies and contracts to provide coverage for postdelivery care for a mother and her newborn infant; specifying services that must be included; requiring the Agency for Health Care Administration to conduct a study to evaluate the clinical effects of shorter stays in the hospital for maternity care; specifying the subject matter of the study; requiring a report; providing a description of state interests; providing an effective date.

Senator McKay moved the following amendment to **Amendment 1** which was adopted:

**Amendment 1A**—On page 1, line 31 through page 2, line 2, and on page 3, lines 10-12, and on page 4, lines 23-25 delete the phrase "consistent with the most recent Guidelines for Perinatal Care of the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists in effect on the date of this act" and insert: in accordance with prevailing medical standards and consistent with the guidelines for perinatal care of the American Academy of Pediatrics or the American College of Obstetricians and Gynecologists

**Amendment 1** as amended was adopted.

On motion by Senator McKay, by two-thirds vote **SB 1860** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36      Nays—None

On motion by Senator Dantzler, by two-thirds vote **HB 1793** was withdrawn from the Committees on Natural Resources; and Ways and Means.

On motion by Senator Dantzler—

**HB 1793**—A bill to be entitled An act relating to trust funds; terminating, within the Department of Environmental Protection, the Apalachicola Bay Protection Trust Fund, the Apalachicola Bay Conservation Trust Fund, the Coastal Zone Management Trust Fund, the Conservation and Recreation Bond Project Trust Fund, the Florida Area of Critical State Concern Restoration Trust Fund, the Beach Management Trust Fund, the Federal Land and Water Conservation Trust Fund, the Save Our State Environmental Education Trust Fund, the Hazardous Waste Management Trust Fund, the Industrial Siting Trust Fund, the Lake Hancock Restoration Trust Fund, the Natural Resources - Resource Management Division Land Reclamation Administration Trust Fund, the Marine Turtle Protection Trust Fund, the Marine Fisheries Commission Trust Fund, the Marine Biological Research Trust Fund, the Motorboat Revolving Trust Fund, the Environmental Regulation - Operating Trust Fund, the Petroleum Exploration and Production Bond Trust Fund, the Pollution Recovery Fund, the Florida Saltwater Products Promotion Trust Fund, the Natural Resources Parks - Save Our Coast Project Trust Fund, the Small Community Sewer Construction Assistance Trust Fund, the Surface Water Improvement and Management Trust Fund, the Oyster and Clam Rehabilitation Trust Fund, the Phosphate Research Trust Fund, the Restoration of Kissimmee River Trust Fund, the Spoil Site Trust Fund, the Replacement Trust Fund, and the State Water Pollution Control Trust Fund; providing for the transfer of current balances, the paying of outstanding debts and obligations, and for removal of the terminated trust funds from the various state accounting systems; amending ss. 161.0535, 161.054, 161.091, 161.101, 161.161, 206.606, 211.31, 211.3103, 215.20, 229.8058, 270.22, 287.0595, 320.08058, 327.25, 327.28, 327.3521, 327.53, 328.15, 328.20,

By the Committee on Natural Resources and Representative Lynn and others—

**CS for HB 2241**—A bill to be entitled An act relating to coastal construction; amending s. 161.053, F.S.; authorizing the Department of Environmental Protection to exempt construction proposed for location seaward of a coastal construction control line and landward of existing armoring from certain siting and design criteria under limited conditions; delaying the date for establishing interim lines of jurisdiction for coastal construction control lines; authorizing the department to grant areawide permits under certain circumstances; authorizing the department to grant general permits for specified projects; prohibiting use of general permits for multi-family habitable structures; authorizing use of general permits for single-family habitable structures under certain conditions; providing procedures to be followed in obtaining general permits; providing a penalty; requiring applicants for general permits to provide certain notice of projects; authorizing the department to revoke or suspend the use of general or areawide permits in certain situations; granting access to the permitted project or activity; creating s. 161.0531, F.S.; authorizing the department to enter into development agreements under certain circumstances; defining “development agreement” for purposes of this section; specifying items to be included in each development agreement; requiring periodic inspections of land subject to a development agreement; requiring recording of development agreements; specifying that development agreements constitute final agency action; prohibiting property owners who have been refused a development agreement from challenging such refusal; amending s. 161.161, F.S.; providing legislative intent with respect to procedure for approval of beach management plan projects; providing an effective date.

(Substituted for **CS for SB 2000** on the Non-Controversial Special Order Calendar this day.)

By the Committee on Judiciary and Representative Trammell—

**HB 2695**—A bill to be entitled An act relating to the judiciary; amending s. 26.031, F.S.; increasing the number of judges in specified judicial circuits; amending s. 34.022, F.S.; increasing the number of judges in specified county courts; providing for election; providing effective dates.

—was referred to the Committee on Judiciary.

## RETURNING MESSAGES ON SENATE BILLS

*The Honorable James A. Scott, President*

I am directed to inform the Senate that the House of Representatives has passed CS for SB 4, with amendment(s), and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

**CS for SB 4**—A bill to be entitled An act relating to sentencing; amending s. 775.084, F.S.; clarifying procedures for sentencing a defendant as a habitual felony offender, a habitual violent felony offender, or a violent career criminal; clarifying when a habitual felony offender, a habitual violent felony offender, or a violent career criminal is subject to imprisonment; clarifying terms of imprisonment; providing that a defendant sentenced as a violent career criminal is not eligible for any form of discretionary release, except pardon, executive clemency, or conditional medical release; amending s. 775.0842, F.S.; correcting a grammatical error; amending s. 921.0011, F.S.; clarifying the definition of the term “victim injury” for purposes of sentencing; amending ss. 921.0012 and 921.0013, F.S.; clarifying the purpose of numerical statutory references, felony degree designations, and descriptive language in the offense severity ranking chart; correcting statutory references; amending s. 921.0014, F.S.; clarifying requirements for assessing points under the sentencing guidelines for a violation of community sanctions and a prior capital felony; revising requirements for assessing points under the sentencing guidelines for a prior serious felony; amending s. 893.135, F.S.; lowering the amount of cannabis necessary to constitute the offense of trafficking in cannabis; providing eligibility for pardon or executive clemency for a defendant convicted of certain drug trafficking offenses; revising the elements of the offense of trafficking in cocaine or illegal drugs to delete the necessity of a determination that the defendant had

a highly culpable mental state in committing the offense; providing that minimum mandatory sentences may be imposed consecutively for drug-trafficking offenses that arise from separate incidents, regardless of the recommendations of the sentencing guidelines; amending s. 775.087, F.S.; providing that a defendant convicted of a felony that involved the use of a weapon or firearm is not eligible for gain-time or any form of discretionary early release, except pardon, executive clemency, or conditional medical release prior to serving the minimum sentence; amending s. 775.0875, F.S.; correcting a cross-reference; amending s. 784.07, F.S.; providing that a defendant convicted of committing a battery against a law enforcement officer or other specified officer while possessing a firearm or semiautomatic firearm is not eligible for gain-time or any form of discretionary early release, except pardon, executive clemency, or conditional medical release prior to serving the minimum sentence; correcting a cross-reference; amending s. 874.04, F.S.; providing for ranking reclassified felony offenses for purposes of sentencing; amending s. 921.187, F.S.; correcting grammar; amending s. 944.275, F.S.; clarifying provisions under which an inmate may be granted gain-time; providing an effective date.

**House Amendment 1 (with title amendment)**—On page 3, line 9, delete everything after the enacting clause and insert:

Section 1. Subsections (2), (3), and (4) of section 775.084, Florida Statutes, are amended, and subsection (6) of said section is reenacted, to read:

775.084 Violent career criminals; habitual felony offenders and habitual violent felony offenders; definitions; procedure; enhanced penalties.—

(2) For the purposes of this section, the placing of a person on probation without an adjudication of guilt shall be treated as a prior conviction if the subsequent offense for which *the person he* is to be sentenced was committed during such probationary period.

(3)(a) In a separate proceeding, the court shall determine if the defendant is a habitual felony offender or a habitual violent felony offender. The procedure shall be as follows:

1. The court shall obtain and consider a presentence investigation prior to the imposition of a sentence as a habitual felony offender or a habitual violent felony offender.

2. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

3. Except as provided in subparagraph 1., all evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

4. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable to the extent normally applicable to similar findings.

5. For the purpose of identification of a habitual felony offender or a habitual violent felony offender, the court shall fingerprint the defendant pursuant to s. 921.241.

6. For an offense committed on or after October 1, 1995, *if the state attorney pursues a habitual felony offender sanction or a habitual violent felony offender sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction*, the court must sentence *the a* defendant *as who meets the criteria for a* habitual felony offender or a habitual violent felony offender, *subject to imprisonment pursuant to this section paragraph (4)(a) or paragraph (4)(b) unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence the a defendant who meets the criteria for sentencing as a habitual felony offender or a habitual violent felony offender to imprisonment pursuant to paragraph (4)(a) or paragraph (4)(b), the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. Each month, the court shall submit monthly reports to the Sentencing Commission regarding habitual felony offender or habitual violent felony offender sentencing under this section,*

(Substituted for **CS for SB 602** on the Special Order Calendar this day.)

By the Committee on Judiciary and Representative Sublette and others—

**CS for HB's 611 and 375**—A bill to be entitled An act relating to contracts in restraint of trade or commerce; creating s. 542.335, F.S.; authorizing enforcement of reasonable restrictions; providing criteria; providing time limitations on certain restrictions; providing for enforcement against third-party beneficiaries; providing criteria for enforcement; providing presumptions; requiring bond for temporary injunctions; providing for attorney's fees; repealing s. 542.33, F.S., relating to validity of certain contracts in restraint of trade; providing application; providing an effective date.

(Substituted for **CS for SB's 282 and 1224** on the Non-Controversial Special Order Calendar this day.)

By Representative Starks and others—

**HB 803**—A bill to be entitled An act relating to the administration and collection of taxes; amending s. 212.18, F.S.; authorizing the Department of Revenue to appoint the county tax collector as an agent of the department for purposes of accepting applications for registration as a dealer under ch. 212, F.S.; authorizing the Department of Revenue to contract with the county tax collector for purposes of collecting delinquent taxes, penalties, and interest; requiring the tax collector to provide notice before commencing litigation to recover a delinquent tax; providing for compensating the tax collector for collection services; authorizing the department to share confidential information with the tax collector; requiring the tax collector to maintain the confidentiality of such information; providing a penalty; declaring an important state interest; providing an effective date.

(Substituted for **SB 486** on the Special Order Calendar this day.)

By the Committee on Judiciary and Representative Roberts-Burke—

**CS for HB 1087**—A bill to be entitled An act relating to child custody and support; amending s. 61.075, F.S.; revising language with respect to the equitable distribution of marital assets and liabilities; amending s. 61.13, F.S.; providing that the circuit court in the county in which either parent and the child reside or the circuit court in which the original award of custody was entered have jurisdiction to modify an award of child custody; providing that the court may not deny the non-custodial parent overnight contact and access or visitation solely because of the age or sex of the child; amending s. 61.30, F.S.; providing, with respect to gross income for child support purposes, that gross income includes court-ordered spousal support in the marriage before the court; providing that an allowable deduction from gross income shall be spousal support paid pursuant to a court order from a previous marriage or the marriage before the court; revising language with respect to minimum child support awards; amending s. 751.011, F.S.; expanding definition of "extended family" to include uncle; amending s. 61.181, F.S.; requiring the Department of Revenue to take necessary action so that the depository may receive certain federal reimbursement moneys; extending the period for increased fees for support payments; requiring electronic funds transfer; requiring that depository fees be set forth in support orders; providing guidelines for collection of fees for support payments; providing for distribution of support to long-term care agencies under certain circumstances; providing for imposition of final judgment by operation of law against an obligor under certain circumstances when unpaid fees and costs exceed \$50; providing for a program audit by the Office of Program Analysis and Government Accountability; providing an effective date.

(Substituted for **SB 2494** on the Non-Controversial Special Order Calendar this day.)

By Representative Goode—

**HB 1271**—A bill to be entitled An act relating to hazardous materials management; amending s. 252.85, F.S., relating to fees imposed on owners or operators of hazardous-materials facilities; providing that the fee does not apply to certain agricultural facilities; providing for a waiver of unpaid fees under certain circumstances; requiring the Department of Environmental Protection and the Department of Community Affairs to develop consolidated reporting forms; repealing s. 9, ch. 92-150, Laws of Florida, relating to the scheduled repeal of s. 252.85, F.S.; providing an effective date.

(Substituted for **CS for SB 130** on the Special Order Calendar this day.)

By the Committee on Governmental Operations and Representative Maygarden—

**CS for HB 1375**—A bill to be entitled An act relating to the auditing and accounting duties of the Comptroller; amending s. 24.115, F.S.; providing a formula for the payment of certain debts out of lottery prizes; amending s. 40.30, F.S.; authorizing the State Courts Administrator to appoint a designee to endorse certain requisitions; amending s. 61.1301, F.S.; providing that the notice to the payor with respect to income deduction orders shall include the obligor's social security number; amending s. 110.113, F.S.; providing that certain state employees are required to participate in the direct deposit program; providing exceptions; amending s. 112.061, F.S.; providing that the Comptroller shall establish a schedule for processing Class C travel subsistence payments at least on a monthly basis; amending s. 215.422, F.S.; conforming to the act with respect to Class C travel; conforming the act with respect to lottery prizes; amending s. 216.271, F.S.; providing that the purposes and uses of a revolving fund may not be changed without the prior approval of the Comptroller; providing an effective date.

(Substituted for **SB 2188** on the Non-Controversial Special Order Calendar this day.)

By the Committee on Community Affairs and Representative Goode—

**CS for HB 1921**—A bill to be entitled An act relating to local government; creating the Commission on Local Government II; providing for membership; providing powers and duties of the commission; requiring reports; providing for staffing of the commission; providing for funding of the act; providing an effective date.

(Substituted for **CS for SB 1816** on the Non-Controversial Special Order Calendar this day.)

By the Committee on Juvenile Justice and Representative Ogles and others—

**CS for HB 1957**—A bill to be entitled An act relating to juveniles; creating s. 775.0833, F.S., relating to county delinquency prevention fines; authorizing a county to adopt an ordinance that incorporates the provisions of said section; providing funding of a juvenile assessment center and suspension program in counties where the sheriff is a partner in such programs through the assessment of an additional court cost against every person convicted of a violation of a criminal statute, an ordinance, or a traffic offense in the county; providing for administration by the clerk of the circuit court; providing for funding teen court through the assessment by county ordinance of an additional court cost against every person convicted of a violation of a criminal statute, an ordinance, or a traffic offense in the county; providing for local option reset and deferral fees; providing an effective date.

(Substituted for **CS for SB 1028** on the Non-Controversial Special Order Calendar this day.)



pass the United States Medical Licensing Examination, or an examination provided by the agency and board that tests the same areas of medical content and knowledge as the examination given by the Federation of State Medical Boards, and referred to as the FLEX; providing for fees; providing for restrictions on practice; providing conditions for transition to full licensure; providing rulemaking authority; providing an effective date.

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

### FIRST READING

*The Honorable James A. Scott, President*

I am directed to inform the Senate that the House of Representatives has passed CS for HB 309, HB 869, HB 1389, CS for HB 1861; has passed as amended HB 147, CS for HB 605, CS for HB's 611 and 375, HB 803, CS for HB 1087, HB 1271, CS for HB 1375, CS for HB 1921, CS for HB 1957, CS for HB 2241; has passed by the required Constitutional two-thirds vote of the membership HB 2695 and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

By the Committee on Community Affairs and Representative Laurent—

**CS for HB 309**—A bill to be entitled An act relating to ad valorem tax administration; amending s. 196.199, F.S.; providing for execution of tax executions issued with respect to taxes on leasehold interests in government property; amending s. 197.222, F.S.; providing that provisions authorizing prepayment of estimated tax by installment apply to each tax notice with taxes estimated to be more than \$100; amending s. 197.343, F.S.; revising requirements with respect to the additional notice of unpaid taxes; providing an effective date.

(Substituted for **SB 666** on the Special Order Calendar this day.)

By Representative Boyd and others—

**HB 869**—A bill to be entitled An act relating to the Apalachicola Bay oyster surcharge; providing that collection of the surcharge during a specified period may not be enforced by the Department of Revenue; providing for credits or refunds for surcharge amounts paid by wholesale dealers during that period; providing an effective date.

(Substituted for **SB 54** on the Non-Controversial Special Order Calendar this day.)

By Representative Warner—

**HB 1389**—A bill to be entitled An act relating to limited licensure of physicians; amending ss. 458.317 and 459.0075, F.S.; eliminating the requirement that a physician or osteopathic physician be retired as a condition of being issued a limited license; providing an effective date.

(Substituted for **SB 2760** on the Special Order Calendar this day.)

By the Committee on Corrections and Representative Meek—

**CS for HB 1861**—A bill to be entitled An act relating to inmate education records; amending s. 229.8075, F.S.; requiring the Department of Education to match certain inmate records with specified educational and occupational information with respect to inmates; amending s. 944.801, F.S.; requiring the Correctional Education Program under the Department of Corrections to develop and report certain statistics on inmates; providing an effective date.

(Substituted for **CS for SB 2276** on the Non-Controversial Special Order Calendar this day.)

By Representative Eggelletion—

**HB 147**—A bill to be entitled An act relating to intangible personal property tax; amending s. 199.185, F.S.; exempting property held for the purpose of funding payments under a retirement plan of corporations meeting specified criteria from payment of intangible property taxes; amending s. 199.183, F.S.; exempting operations of certain national banks from paying tax on credit card receivables owed by card holders domiciled outside this state; amending ss. 199.052, 213.053, and 213.054, F.S.; correcting references; providing an effective date.

(Substituted for **CS for SB 510** on the Special Order Calendar this day.)

By the Committees on Natural Resources; Agriculture and Consumer Services; and Representative Harris and others—

**CS for HB 605**—A bill to be entitled An act relating to aquaculture; amending s. 1.01, F.S.; clarifying the definition of "agriculture" for aquaculture purposes; amending s. 253.67, F.S.; revising the definition of "aquaculture"; amending s. 253.68, F.S., relating to authority to lease submerged land and water column; declaring legislative intent to promote aquaculture production and development; urging the Congress of the United States to recognize aquaculture as agriculture for certain purposes; amending s. 253.69, F.S., relating to application to lease submerged land and water column; amending s. 253.71, F.S.; providing special lease conditions; amending s. 258.42, F.S., relating to maintenance of aquatic preserves; authorizing aquaculture leases; requiring the Department of Environmental Protection to establish rules for freshwater and urban aquatic preserves; amending s. 322.01, F.S.; revising definition of "farmer" as used in the chapter on drivers' licenses to include aquacultural products; amending s. 327.41, F.S.; requiring uniform marking of aquaculture leaseholds; amending s. 370.021, F.S.; providing for revocation of certain licenses for taking aquaculture species raised at a certified facility; amending s. 370.027, F.S.; exempting certain marine aquaculture products from resource management rules; amending s. 370.06, F.S.; providing an exemption from saltwater products licensing; authorizing special activity licenses in certain instances; amending s. 370.071, F.S.; authorizing the licensure of aquaculture facilities under certain circumstances; creating s. 370.26, F.S., relating to marine aquaculture products and producers; providing duties of the Department of Environmental Protection; providing for establishment of aquaculture general permits and fees; providing for establishment of grant programs; amending s. 372.65, F.S.; providing exemption from certain licensure; deleting a fee requirement; amending s. 373.046, F.S., relating to interagency agreements; providing regulatory responsibilities of the Department of Environmental Protection and water management districts for aquaculture activities; creating s. 373.1131, F.S.; providing for consolidated action on permits; amending s. 373.4145, F.S., relating to the Northwest Florida Water Management District; providing for establishment of exemptions and general permits for dredging and filling; amending s. 403.814, F.S.; providing for the establishment of certain general permits; providing for delegation of authority; amending s. 403.927, F.S.; exempting aquaculture water management systems from exceptions to certain regulation of types of agriculture; amending s. 570.02, F.S.; clarifying the definition of "agriculture"; amending s. 581.145, F.S.; providing for issuance of permits for exporting waterhyacinths; amending s. 597.0015, F.S.; providing definitions relating to aquaculture; amending s. 597.002, F.S.; revising declaration of public policy respecting aquaculture; amending s. 597.0021, F.S.; revising provisions relating to legislative intent; amending s. 597.003, F.S.; revising powers and duties of the Department of Agriculture and Consumer Services with regard to aquaculture; creating s. 597.004, F.S.; providing for an aquaculture certification of registration; providing for fees and deposit thereof; providing for identification, labeling, and sale of aquaculture products; creating s. 597.0041, F.S.; providing prohibited acts and penalties; amending s. 597.005, F.S.; revising membership and responsibilities of the Aquaculture Review Council; amending s. 812.014, F.S.; imposing a fine against persons stealing aquaculture species raised at a certified aquaculture facility; amending s. 932.701, F.S.; subjecting persons stealing aquaculture species from certified aquaculture facilities to the Florida Contraband Forfeiture Act; amending s. 932.703, F.S.; requiring any authorized agency to seize aquaculture contraband when used in violation of the Florida Contraband Forfeiture Act; requiring the establishment of specified positions; repealing s. 597.007, F.S., relating to the delegation of permitting; providing an effective date.

relating to interagency agreements; providing regulatory responsibilities of the Department of Environmental Protection and water management districts for aquaculture activities; creating s. 373.1131, F.S.; providing for consolidated action on permits; amending s. 373.4145, F.S., relating to the Northwest Florida Water Management District; providing for establishment of exemptions and general permits for dredging and filling; amending s. 403.814, F.S.; providing for the establishment of certain general permits; providing for delegation of authority; amending s. 403.927, F.S.; exempting aquaculture water management systems from exceptions to certain regulation of types of agriculture; amending s. 570.02, F.S.; clarifying the definition of "agriculture"; amending s. 581.145, F.S.; providing for issuance of permits for exporting waterhyacinths; amending s. 597.0015, F.S.; providing definitions relating to aquaculture; amending s. 597.002, F.S.; revising declaration of public policy respecting aquaculture; amending s. 597.0021, F.S.; revising provisions relating to legislative intent; amending s. 597.003, F.S.; revising powers and duties of the Department of Agriculture and Consumer Services with regard to aquaculture; creating s. 597.004, F.S.; providing for an aquaculture certification of registration; providing for fees and deposit thereof; providing for identification, labeling, and sale of aquaculture products; creating s. 597.0041, F.S.; providing prohibited acts and penalties; amending s. 597.005, F.S.; revising membership and responsibilities of the Aquaculture Review Council; amending s. 812.014, F.S.; imposing a fine against persons stealing aquaculture species raised at a certified aquaculture facility; amending s. 932.701, F.S.; subjecting persons stealing aquaculture species from certified aquaculture facilities to the Florida Contraband Forfeiture Act; amending s. 932.703, F.S.; requiring any authorized agency to seize aquaculture contraband when used in violation of the Florida Contraband Forfeiture Act; requiring the establishment of specified positions; repealing s. 597.007, F.S., relating to the delegation of permitting; providing an effective date.

—a companion measure, was substituted for **CS for SB 602** and by two-thirds vote read the second time by title.

Senators Childers and Harden offered the following amendment which was moved by Senator Childers and adopted:

**Amendment 1 (with title amendment)**—On page 42, between lines 18 and 19, insert:

Section 35. There is hereby appropriated \$440,000 from the General Revenue Fund to the Department of Agriculture and Consumer Services for fiscal year 1996-97 for the Baker Recreation facility.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 4, line 2, after the semicolon (;) insert: providing an appropriation;

On motion by Senator Bronson, by two-thirds vote **CS for HB 605** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38      Nays—None

The Senate resumed consideration of—

**SB 1812**—A bill to be entitled An act relating to illegal aliens; amending s. 287.012, F.S.; providing that, to be a "qualified bidder" with respect to providing personal property or services, a person must certify that he does not, and will not, employ illegal aliens, as defined; providing an effective date.

—with pending **Amendment 1** by Senator Harden.

Senators Harden and Brown-Waite offered the following amendment to **Amendment 1** which was moved by Senator Harden and failed:

**Amendment 1A**—On page 2, line 2, insert:

(4) This section does not apply if the person being transported is:

(a) A national from a country with no diplomatic relations with the United States;

(b) Seeking political asylum in this country under federal law; or

(c) Being transported for humanitarian purposes.

The question recurred on **Amendment 1** which was withdrawn.

On motion by Senator Jenne, by two-thirds vote **SB 1812** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38      Nays—None

## MOTIONS

On motion by Senator Jennings, by two-thirds vote all bills remaining on the Special Order Calendar this day and **CS for SB's 14, 30, 516 and 596, CS for SB 84, CS for SB 132, SB 182, CS for SB 246, CS for SB 264, SB 304, SB 328, CS for CS for SB 332, SB 354, SB 392, CS for SB 424, CS for SB 444, SB 584, SB 608, CS for SB 624, CS for CS for SB 648, SB 660, CS for SB 740, SB 852, SB 954, SB 1034, SB 1080, CS for SB 1258, SB 1260, CS for SB 1312, CS for SB 2232, SB 2296, SB 2470, SB 2550, SB 2916, CS for CS for SB 1282, CS for SB 2822, SB 2184, SB 2262, SB 2264, SB 2530, CS for SB 2392, CS for SB's 1038 and 2178, SB 122, SB 556, SB 776, CS for CS for SB 2922, CS for SB 2222, CS for SB 2810, CS for SB 2812, SB 920 and SB 66** were established as the Special Order Calendar for Thursday, May 2.

## REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following Carry-over Special Order Calendar for Wednesday, May 1, 1996: **SB 1290, SB 2890, SB 486, SB 666, CS for SB-698, CS for CS for SB 228, CS for SB 910, SB 820, SB 2368, HB 157, SB 1812, SB 1278, SB 1274, CS for SB 222, CS for SB's 386, 732 and 1208, CS for SB 892, SB 2760, CS for SB 2008**

Respectfully submitted,  
Toni Jennings, Chairman

The Committee on Rules and Calendar submits the following Non-Controversial Special Order Calendar for Wednesday, May 1, 1996: **SB 54, SB 48, CS for SB 1986, SB 792, CS for SB 1028, CS for SB 1692, SB 1860, SB 2194, CS for SB 2508, CS for SB 2414, SB 1068, SB 900, CS for CS for SB 310, CS for SB 536, SJR 58, CS for SB 2954, SB 1094, CS for SB's 282 and 1224, SB 2186, CS for SB 2784, CS for SB 1816, CS for SB 2002, SB 2354, SB 1118, SB 1296, CS for SB 2000, CS for SB 176, CS for SB 46, CS for SB 106, SB 2494, SB 2344, SB 2188, SB 942, CS for SB 2276, CS for SB 1940, CS for SB 1950, SB 2830, SB 2778**

Respectfully submitted,  
Toni Jennings, Chairman

## COMMITTEE SUBSTITUTES

### FIRST READING

By the Committees on Ways and Means; Governmental Reform and Oversight; and Senators Ostalkiewicz and Sullivan—

**CS for CS for SB 866**—A bill to be entitled An act relating to the regulation of professions and occupations; amending s. 455.2141, F.S.; revising continuing medical education requirements relating to the number of hours of risk management or cost containment that may be required; authorizing the inclusion of a specified number of hours on other topics related to the applicable medical specialty; eliminating the requirement that equivalent national or state educational courses be considered in fulfillment of continuing medical education requirements; requiring each of certain medical boards to determine whether any specific course requirements not otherwise mandated by law shall be mandated and to approve criteria for, and the content of, any such course mandated by such board; amending ss. 240.215, 455.213, F.S., to conform; removing related provisions which have been repealed; repealing s. 455.2555, F.S., relating to a fee schedule imposed on providers of designated health services; creating s. 458.3115, F.S.; providing requirements for certain foreign-licensed physicians to obtain a restricted license to practice medicine in this state; requiring that such physicians

Yeas—35

Nays—None

### INTRODUCTION OF FORMER SENATOR

President Scott recognized former Senator Curt Kiser who was present in the chamber.

**CS for CS for SB 770**—A bill to be entitled An act relating to environmental lands; providing legislative findings; prohibiting the exercise of eminent domain to acquire homesteads; amending s. 259.032, F.S.; providing for funding from the Conservation and Recreation Lands Trust Fund for the control of upland and aquatic nonnative plant species and beach restoration and renourishment projects; authorizing payments in lieu of taxes to cities and other taxing entities; providing for unused funds appropriated for payments in lieu of taxes to be used for the management of certain conservation or recreational lands; providing land management requirements; amending s. 259.035, F.S.; requiring the Land Acquisition Advisory Council to rank acquisition projects in specified categories; amending s. 259.04, F.S.; authorizing the purchase of fee title or lesser interest in certain lands; providing legislative intent regarding less than fee acquisitions; requiring certain less than fee purchases; amending s. 259.101, F.S.; requiring certain purchases with Florida Communities Trust funds; providing funds from the Florida Communities Trust to be used for recreational development activities under s. 375.075, F.S.; retitling the Rails-to-Trails Program as the Greenways and Trails Program, providing for certain acquisitions; abrogating the repeal of s. 259.101(3)(c)-(g), F.S., which is scheduled for October 1, 1996; providing for the future repeal of s. 259.101, F.S.; providing additional project criteria relating to restoration for land acquisition using Preservation 2000 funds; conforming cross-references; amending ss. 260.011-260.018, F.S.; renaming the "Florida Rails to Trails Program" as the "Greenways and Trails Program"; revising definitions; providing for expansion of the program to include a statewide system of greenways and trails for recreation and conservation; implementing concepts of ecosystem management; revising land acquisition procedures; revising map requirements; providing for use agreements and reasonable fees; creating s. 369.252, F.S.; providing for eradication and control of invasive exotic plants on public lands; amending s. 372.12, F.S.; providing for the acquisition of lands by the Game and Fresh Water Fish Commission in fee title or any lesser interest; amending s. 380.502, F.S.; providing legislative intent; amending s. 380.503, F.S.; providing a definition; amending s. 380.507, F.S.; requiring the Florida Communities Trust Program to assist local governments in acquiring urban greenways and open space projects; amending s. 380.0677, F.S.; deleting requirements with respect to funds placed in reserve; providing an effective date.

—was read the second time by title. On motion by Senator Dantzler, by two-thirds vote **CS for CS for SB 770** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Nays—None

### RECESS

The President declared the Senate in informal recess at 5:33 p.m.

### CALL TO ORDER

The Senate was called to order by the President at 5:53 p.m. A quorum present.

### SPECIAL ORDER CALENDAR, continued

**CS for SB 602**—A bill to be entitled An act relating to aquaculture; amending s. 1.01, F.S.; clarifying the definition of "agriculture" for aquaculture purposes; amending s. 253.67, F.S.; revising the definition of "aquaculture"; amending s. 253.68, F.S., relating to authority to lease submerged land and water column; declaring legislative intent to promote aquaculture production and development; amending s. 253.69, F.S., relating to application to lease submerged land and water column; amending s. 253.71, F.S.; providing special lease conditions; amending s. 258.42, F.S., relating to maintenance of aquatic preserves; authorizing aquaculture leases; amending s. 322.01, F.S.; revising definition of "farmer" as used in the chapter on drivers' licenses to include aquacultural

products; amending s. 327.41, F.S.; requiring uniform marking of aquaculture leaseholds; amending s. 370.021, F.S.; providing for revocation of certain licenses for taking aquaculture species raised at a certified facility; amending s. 370.027, F.S.; exempting certain marine aquaculture products from resource management rules; amending s. 370.06, F.S.; providing an exemption from saltwater products licensing; authorizing special activity licenses in certain instances; amending s. 370.071, F.S.; authorizing the licensure of aquaculture facilities under certain circumstances; creating s. 370.26, F.S., relating to marine aquaculture products and producers; providing duties of the Department of Environmental Protection; providing for establishment of aquaculture general permits and fees; providing for establishment of grant programs; amending s. 372.65, F.S.; providing exemption from certain licensure; deleting a fee requirement; amending s. 373.046, F.S., relating to interagency agreements; providing regulatory responsibilities of the Department of Environmental Protection and water management districts for aquaculture activities; creating s. 373.1131, F.S.; providing for consolidated action on permits; amending s. 373.4145, F.S., relating to the Northwest Florida Water Management District; providing for establishment of exemptions and general permits for dredging and filling; amending s. 403.814, F.S.; providing for the establishment of certain general permits; providing for delegation of authority; amending s. 403.927, F.S.; exempting aquaculture water management systems from exceptions for other types of agriculture; amending s. 570.02, F.S.; clarifying the definition of "agriculture"; amending s. 581.145, F.S.; providing for issuance of permits for exporting waterhyacinths; amending s. 597.0015, F.S.; providing definitions relating to aquaculture; amending s. 597.002, F.S.; revising declaration of public policy respecting aquaculture; amending s. 597.0021, F.S.; revising provisions relating to legislative intent; amending s. 597.003, F.S.; revising powers and duties of the Department of Agriculture and Consumer Services with regard to aquaculture; creating s. 597.004, F.S.; providing for an aquaculture certification of registration; providing for fees and deposit thereof; providing for identification, labeling, and sale of aquaculture products; creating s. 597.0041, F.S.; providing prohibited acts and penalties; amending s. 597.005, F.S.; revising membership and responsibilities of the Aquaculture Review Council; amending s. 812.014, F.S.; increasing penalties for theft against certified aquaculture facilities; providing appropriations and requiring the establishment of specified positions; repealing s. 597.007, F.S., relating to the delegation of permitting; providing an effective date.

—was read the second time by title.

Amendments were considered to conform **CS for SB 602** to **CS for HB 605**.

Pending further consideration of **CS for SB 602** as amended, on motions by Senator Bronson, by two-thirds vote—

**CS for HB 605**—A bill to be entitled An act relating to aquaculture; amending s. 1.01, F.S.; clarifying the definition of "agriculture" for aquaculture purposes; amending s. 253.67, F.S.; revising the definition of "aquaculture"; amending s. 253.68, F.S., relating to authority to lease submerged land and water column; declaring legislative intent to promote aquaculture production and development; urging the Congress of the United States to recognize aquaculture as agriculture for certain purposes; amending s. 253.69, F.S., relating to application to lease submerged land and water column; amending s. 253.71, F.S.; providing special lease conditions; amending s. 258.42, F.S., relating to maintenance of aquatic preserves; authorizing aquaculture leases; requiring the Department of Environmental Protection to establish rules for freshwater and urban aquatic preserves; amending s. 322.01, F.S.; revising definition of "farmer" as used in the chapter on drivers' licenses to include aquacultural products; amending s. 327.41, F.S.; requiring uniform marking of aquaculture leaseholds; amending s. 370.021, F.S.; providing for revocation of certain licenses for taking aquaculture species raised at a certified facility; amending s. 370.027, F.S.; exempting certain marine aquaculture products from resource management rules; amending s. 370.06, F.S.; providing an exemption from saltwater products licensing; authorizing special activity licenses in certain instances; amending s. 370.071, F.S.; authorizing the licensure of aquaculture facilities under certain circumstances; creating s. 370.26, F.S., relating to marine aquaculture products and producers; providing duties of the Department of Environmental Protection; providing for establishment of aquaculture general permits and fees; providing for establishment of grant programs; amending s. 372.65, F.S.; providing exemption from certain licensure; deleting a fee requirement; amending s. 373.046, F.S.,

7.6. Supervisors, who must make the applications and forms available in the following manner:

- a. By distributing the applications and forms in their offices to any individual or group.
- b. By distributing the applications and forms at other locations designated by each supervisor.
- c. By mailing the applications and forms to applicants upon the request of the applicant.

Section 4. Section 97.0583, Florida Statutes, is created to read:

97.0583 Voter registration at qualifying educational institutions.— Each qualifying educational institution shall provide each student enrolled in that institution the opportunity to register to vote or to update a voter registration record on each campus at least once a year. Qualifying educational institutions are also encouraged to provide voter registration services at other times and places, such as upon application for financial aid, during admissions, at registration, upon issuance of student identifications, and at new-student orientation.

Section 5. This act shall take effect January 1, 1997.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to voter registration; amending s. 97.021, F.S.; defining the term "qualifying educational institution"; amending s. 97.023, F.S.; providing for recovery of costs and reasonable attorney's fees on any complaint filed with respect to a violation of voter registration provisions; amending s. 97.052, F.S.; requiring the Department of State to provide voter registration forms to qualifying educational institutions; creating s. 97.0583, F.S.; requiring qualifying educational institutions to provide voter registration services to students; providing an effective date.

Senator Latvala moved the following amendment to **Amendment 2** which was adopted:

**Amendment 2A (with title amendment)**—On page 2, lines 3-8, delete all of those lines

(Renumber subsequent sections.)

And the title is amended as follows:

On page 3, line 29, through page 4, line 2, delete all of those lines and insert: educational institution"; amending s. 97.052,

Senator Thomas moved the following amendment to **Amendment 2** which was adopted:

**Amendment 2B (with title amendment)**—On page 3, between lines 17 and 18, insert:

Section 4. Subsection (1) of section 100.011, Florida Statutes, is amended to read:

100.011 Opening and closing of polls, all elections; expenses.—

(1) The polls shall be open at the voting places at 7:00 a.m., on the day of the election, and shall be kept open until 7:00 p.m., of the same day, and the time shall be regulated by the customary time in standard use in the *county seat of the locality*. The inspectors shall make public proclamation of the opening and closing of the polls. During the election and canvass of the votes, the ballot box shall not be concealed.

(Renumber subsequent sections.)

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to elections; amending s. 97.021, F.S.; defining "qualifying educational institution"; amending s. 97.023, F.S.; providing for recovery of costs and reasonable attorney's fees on any complaint filed with respect to a violation of voter registration provisions; amending s. 97.052, F.S.; requiring the Department of State to provide voter registration forms to qualifying educational institutions; creating s. 97.0583, F.S.; requiring qualifying educational institutions to provide

voter registration services to students; amending s. 100.011, F.S.; providing that the time for opening and closing of the polls shall be regulated by the customary time in standard use in the county seat of the locality; providing an effective date.

**Amendment 2** as amended was adopted.

On motion by Senator Jones, by two-thirds vote **CS for SB 2008** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36      Nays—None

## MOTION

On motion by Senator Jennings, the rules were waived and by two-thirds vote **CS for SB 2180, CS for SB's 1626 and 1654, CS for SJR 978, CS for SB 602, CS for CS for SB 770, CS for SB 130 and CS for SB 510** were placed next on the Special Order Calendar.

Consideration of **CS for SB 2180 and CS for SB's 1626 and 1654** was deferred.

**CS for SJR 978**—A joint resolution proposing amendments to sections 2, 8, 10, 11, and 12 of Article V of the State Constitution relating to the Judiciary.

—was read the second time by title.

On motion by Senator Dudley, further consideration of **CS for SJR 978** was deferred.

Consideration of **CS for SB 602 and CS for CS for SB 770** was deferred.

On motions by Senator Dantzler, by two-thirds vote—

**HB 1271**—A bill to be entitled An act relating to hazardous materials management; amending s. 252.85, F.S., relating to fees imposed on owners or operators of hazardous-materials facilities; providing that the fee does not apply to certain agricultural facilities; providing for a waiver of unpaid fees under certain circumstances; requiring the Department of Environmental Protection and the Department of Community Affairs to develop consolidated reporting forms; repealing s. 9, ch. 92-150, Laws of Florida, relating to the scheduled repeal of s. 252.85, F.S.; providing an effective date.

—a companion measure, was substituted for **CS for SB 130** and by two-thirds vote read the second time by title. On motion by Senator Dantzler, by two-thirds vote **HB 1271** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35      Nays—None

On motions by Senator Burt, by two-thirds vote—

**HB 147**—A bill to be entitled An act relating to intangible personal property tax; amending s. 199.185, F.S.; exempting property held for the purpose of funding payments under a retirement plan of corporations meeting specified criteria from payment of intangible property taxes; amending s. 199.183, F.S.; exempting operations of certain national banks from paying tax on credit card receivables owed by card holders domiciled outside this state; amending ss. 199.052, 213.053, and 213.054, F.S.; correcting references; providing an effective date.

—a companion measure, was substituted for **CS for SB 510** and by two-thirds vote read the second time by title. On motion by Senator Burt, by two-thirds vote **HB 147** was read the third time by title, passed and certified to the House. The vote on passage was:

(11) Court costs which are to be in addition to the stated fine shall be imposed by the court in an amount not less than the following:

For pedestrian infractions . . . . . \$ 3.  
For non-moving traffic infractions . . . . . \$ 6.  
For moving traffic infractions . . . . . \$10.

**Amendment 6**—On page 46, lines 10 and 11, delete those lines and insert: civil penalty of \$12, ~~which additional civil penalty shall be distributed as provided in s. 318.21~~ \$2.50 of which must be deposited into the General Revenue Fund, and \$9.50 of which must be deposited in the Highway Safety Operating Trust Fund. There is hereby appropriated from the Highway Safety Operating Trust Fund for fiscal year 1996-1997 the amount of \$4 million. From this appropriation the department shall contract with the Florida Association of Court Clerks, Inc., to design, establish, operate, upgrade, and maintain an automated statewide Uniform Traffic Citation Accounting System to be operated by the clerks of the court which shall include, but not be limited to, the accounting for traffic infractions by type, a record of the disposition of the citations, and an accounting system for the fines assessed and the subsequent fine amounts paid to the clerks of the court. On or before October 1, 1998, the clerks of the court must provide the information required by this chapter to be transmitted to the department by electronic transmission pursuant to the contract.

On motion by Senator Beard, by two-thirds vote **CS for SB 892** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35      Nays—1

### NON-CONTROVERSIAL SPECIAL ORDER CALENDAR, continued

#### THE PRESIDENT PRESIDING

**CS for SB 1950**—A bill to be entitled An act relating to victim assistance; amending s. 960.001, F.S., relating to guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems; requiring the Department of Juvenile Justice to develop and implement guidelines for notifying victims and witnesses of the release of certain defendants; providing conforming references with respect to the juvenile justice system; providing an effective date.

—was read the second time by title.

An amendment was considered to conform **CS for SB 1950** to **CS for HB 2215**.

Pending further consideration of **CS for SB 1950** as amended, on motion by Senator Silver, by two-thirds vote **CS for HB 2215** was withdrawn from the Committees on Criminal Justice; and Ways and Means.

On motion by Senator Silver, the rules were waived and—

**CS for HB 2215**—A bill to be entitled An act relating to victim assistance; amending s. 960.001, F.S., relating to guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems; requiring the Department of Juvenile Justice to develop and implement guidelines for notifying victims and witnesses of the release of certain defendants; providing conforming references with respect to the juvenile justice system; amending s. 960.03, F.S.; defining “disabled adult,” “elderly person,” “property loss,” and “treatment” and redefining “victim” with respect to specified provisions relating to victim assistance; amending s. 960.13, F.S.; revising guidelines for awards and increasing the maximum amounts of awards; creating s. 960.195, F.S.; providing for awards by the Department of Legal Affairs to elderly persons or disabled adults for property loss, under specified circumstances; providing an effective date.

—a companion measure, was substituted for **CS for SB 1950** and read the second time by title. On motion by Senator Silver, by two-thirds vote **CS for HB 2215** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35      Nays—None

#### MOTION

On motion by Senator Jennings, the rules were waived and time of recess was extended until 6:40 p.m.

### SPECIAL ORDER CALENDAR, continued

**CS for SB 2008**—A bill to be entitled An act relating to voter registration; amending s. 97.021, F.S.; defining “qualifying educational institution” and revising the definition of “voter registration agency” to include the former; amending s. 97.058, F.S.; providing that qualifying educational institutions are voter registration agencies and providing requirements with respect thereto; providing an effective date.

—was read the second time by title.

The Committee on Judiciary recommended the following amendment which was moved by Senator Jones and failed:

**Amendment 1**—On page 1, line 28, after the word “institution” insert: and provided that the recognized student government organization has requested this designation in writing and has filed the request with the office of the Supervisor of Elections in the county in which the institution is located

Senator Holzendorf offered the following amendment which was moved by Senator Jones:

**Amendment 2 (with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Subsections (23) through (28) of section 97.021, Florida Statutes, are renumbered as subsections (24) through (29), respectively, and a new subsection (23) is added to that section, to read:

97.021 Definitions.—For the purposes of this code, except where the context clearly indicates otherwise, the term:

(23) “Qualifying educational institution” means any public or private educational institution receiving state financial assistance which has, as its primary mission, the provision of education or training to students who are at least 18 years of age, provided such institution has more than 200 students enrolled in classes with the institution and provided that the recognized student government organization has requested this designation in writing and has filed the request with the office of the supervisor of elections in the county in which the institution is located.

Section 2. Subsection (4) is added to section 97.023, Florida Statutes, to read:

97.023 Procedures on complaints of violations.—

(4) Any complainant who prevails on a complaint brought under this section is entitled to recover costs and reasonable attorney’s fees.

Section 3. Paragraph (b) of subsection (1) of section 97.052, Florida Statutes, is amended to read:

97.052 Uniform statewide voter registration application.—

(1) The department shall prescribe a uniform statewide voter registration application for use in this state.

(b) The department is responsible for printing the uniform statewide voter registration application and the voter registration application form prescribed by the Federal Election Commission pursuant to the National Voter Registration Act of 1993. The applications and forms must be distributed, upon request, to the following:

1. Individuals seeking to register to vote.
2. Individuals or groups conducting voter registration programs.
3. The Department of Highway Safety and Motor Vehicles.
4. Voter registration agencies.
5. Armed forces recruitment offices.
6. Qualifying educational institutions.

to set a maximum speed limit of 20 or 25 miles per hour on local streets and highways; amending s. 316.187, F.S.; providing the type of violation; amending s. 316.189, F.S.; authorizing a municipality to set a maximum speed limit of 20 or 25 miles per hour on local streets and highways; amending s. 316.1895, F.S.; providing the type of violation; amending s. 316.1925, F.S.; providing the type of violation; amending s. 316.1955, F.S.; conforming a reference; amending s. 316.1956, F.S.; conforming a reference; amending ss. 316.1965, 316.2015, 316.2045, 316.2074, 316.2398, F.S.; amending the type of violation; amending s. 316.2935, F.S.; conforming a reference; amending s. 316.516, F.S.; providing the type of violation; amending s. 316.6105, F.S.; extending the time within which proof of repair may be provided; amending s. 316.613, F.S.; providing that a violation of the child restraint law is a moving violation; deleting the points assessed on a driver's license for a violation of the law; amending s. 316.614, F.S.; deleting obsolete provisions; providing that a violation of the safety-belt law is a nonmoving violation; amending s. 316.640, F.S.; authorizing a sheriff's office to employ traffic accident investigation officers; authorizing any sheriff's office or police department of a municipality to employ traffic control officers; authorizing any sheriff's office or police department of a chartered municipality to employ traffic infraction enforcement officers; amending s. 316.646, F.S.; deleting the requirement for an affidavit; deleting the provision allowing a person to show proof of valid security at the time of arrest; amending s. 316.650, F.S.; authorizing a traffic enforcement agency to produce uniform traffic citations by electronic means; requiring the department to distribute a traffic infraction reference guide; amending ss. 316.655, 316.660, F.S.; providing for the disposition of fines pursuant to s. 318.21, F.S.; creating s. 318.121, F.S.; providing that additional fees, fines, surcharges, or costs may not be added to the civil traffic penalties assessed in ch. 318, F.S.; amending s. 318.14, F.S.; increasing the maximum allowable judicial penalty for unlawful speed in school and construction zones, or in cases involving a death; repealing s. 318.141, F.S., relating to noncriminal traffic infractions; creating s. 318.143, F.S.; authorizing additional sanctions for juveniles who have violated ch. 316, F.S.; amending s. 318.17, F.S.; excepting any criminal offense in ch. 316, F.S., from the provisions of ch. 318, F.S.; amending s. 318.18, F.S.; amending fine amounts for bicycle, pedestrian, moving, and nonmoving violations; amending s. 318.20, F.S.; authorizing electronically produced traffic citations; amending s. 318.21, F.S.; amending the distribution of funds collected as fines for infractions under ch. 318, F.S.; amending s. 320.0605, F.S.; deleting a dismissal fee; amending s. 320.07, F.S.; deleting the provision for dismissal; amending s. 320.0848, F.S.; conforming a reference; amending s. 322.065, F.S.; deleting the provision for dismissal; amending s. 322.15, F.S.; deleting the provision for dismissal; amending s. 322.245, F.S.; conforming a reference; amending s. 322.27, F.S.; removing points for improper equipment and failure to have a child safety seat; amending s. 338.239, F.S.; providing for punishment of offenses in accordance with ch. 318, F.S.; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendment which was moved by Senator Beard and adopted:

**Amendment 1 (with title amendment)**—On page 30, line 24 through page 31, line 28, delete those lines and insert:

Section 39. Subsection (1) of section 316.650, Florida Statutes, is amended, and subsection (11) is added to that section to read:

316.650 Traffic citations.—

(1)(a) The department shall prepare, and supply to every traffic enforcement agency in this state, an appropriate form traffic citation containing a notice to appear (which shall be issued in prenumbered books with citations in quintuplicate) and meeting the requirements of this chapter or any laws of this state regulating traffic, which form shall be consistent with the state traffic court rules and the procedures established by the department.

(b) The department shall prepare, and supply to every traffic enforcement agency in the state, an appropriate affidavit-of-compliance form which shall be issued along with the form traffic citation for any violation of s. 316.610 and which shall indicate the specific defect which needs to be corrected. However, such affidavit of compliance shall not be issued in the case of a violation of s. 316.610 by a commercial motor vehicle as defined in s. 316.003(66). Such affidavit-of-compliance form shall be distributed in the same manner and to the same parties as is the form traffic citation.

(c) Notwithstanding paragraphs (a) and (b), a traffic enforcement agency may produce uniform traffic citations by electronic means. Such citations must be consistent with the state traffic court rules and the procedures established by the department; must be appropriately numbered and inventoried; and may have fewer copies than the quintuplicate form. Affidavit-of-compliance forms may also be produced by electronic means.

(d) The department must distribute to every traffic enforcement agency and to any others who request it, a traffic infraction reference guide describing the class of the traffic infraction, the penalty for the infraction, the points to be assessed on a driver's license, and any other information necessary to describe a violation and the penalties therefor.

(11) Uniform traffic citations issued by a law enforcement officer, and all information contained therein, including but not limited to, the name of person issued the citation, and the person's address, height, weight, and date of birth shall not be used for commercial solicitation purposes, provided however, that the use of information contained in a uniform traffic citation for purposes of publication in a newspaper or other news periodical or a radio or television broadcast shall not be construed as a commercial purpose.

And the title is amended as follows:

On page 3, line 19, after the semicolon (;) insert: providing that information on a uniform traffic citation may not be used for commercial solicitation purposes;

Senator Kurth moved the following amendment which was adopted:

**Amendment 2 (with title amendment)**—On page 23, lines 28-30, delete those lines and insert: ~~infraction~~ punishable as provided for in chapter 318 s. ~~318.18(13)~~ and shall have 3 points assessed against his or her driver's license as set forth in s. 322.27. *In lieu of the penalty specified in s. 318.18 and the assessment of points, a person who violates the provisions of this section may elect, with the court's approval, to participate in a child restraint safety program approved by the chief judge of the circuit in which the violation occurs, and upon completing such program, the penalty specified in chapter 318 and associated costs, may be waived at the court's discretion and the assessment of points shall be waived. The child restraint safety program must use a course approved by the Department of Health and Rehabilitative Services and the fee for the course must bear a reasonable relationship to the cost of providing the course.*

And the title is amended as follows:

On page 2, lines 29-31, delete those lines and insert: moving violation; providing for a waiver of the points and the fine; amending s. 316.614, F.S.; deleting

Senator Beard moved the following amendments which were adopted:

**Amendment 3**—On page 43, line 6, delete "316.0605" and insert: 320.0605

**Amendment 4**—On page 46, lines 10 and 11, delete those lines and insert: civil penalty of \$12 ~~which additional civil penalty shall be distributed as provided in s. 318.21~~. *The proceeds from the additional penalty must be deposited in the Highway Safety Operating Trust Fund. The department shall contract with the Florida Association of Court Clerks, Inc., to design, establish, operate, upgrade, and maintain an automated statewide Uniform Traffic Citation Accounting System to be operated by the clerks of the court which shall include, but not be limited to, the accounting for traffic infractions by type, a record of the disposition of the citations, and an accounting system for the fines assessed and the subsequent fine amounts paid to the clerks of the court. On or before October 1, 1998, the clerks of the court must provide the information required by this chapter to be transmitted to the department by electronic transmission pursuant to the contract.*

#### RECONSIDERATION OF AMENDMENT

On motion by Senator Beard, the Senate reconsidered the vote by which **Amendment 4** was adopted. **Amendment 4** was withdrawn.

**Amendment 5**—On page 47, lines 26 and 27, delete those lines and insert:



child care facilities apply to after-school recreational programs; providing an effective date.

—was read the second time by title.

The Committee on Health and Rehabilitative Services recommended the following amendment which was moved by Senator Ostalkiewicz and failed:

**Amendment 1**—On page 2, lines 14 and 15, delete those lines and insert: requirements for child care personnel, apply to all child care personnel of after-school recreational programs.

Senator Ostalkiewicz moved the following amendment:

**Amendment 2 (with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Section 402.3021, Florida Statutes, is created to read:

402.3021 Screening requirements for after-school recreation programs.—After-school recreation programs that are not child care facilities as defined in s. 402.302(4) and that are operated by counties or municipalities shall require employees of these programs who have direct contact with persons under the age of 15 to meet level 2 screening requirements under s. 435.04.

Section 2. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, lines 3-9, delete those lines and insert: creating s. 402.3021, F.S.; requiring screening of certain staff of after-school recreation programs; providing an effective date.

Senator Kirkpatrick moved the following amendment to **Amendment 2** which was adopted:

**Amendment 2A (with title amendment)**—On page 1, between lines 16 and 17, insert:

Section 1. Subsection (3) of section 402.305, Florida Statutes, is amended to read:

402.305 Licensing standards; child care facilities.—

(3) **MINIMUM STAFF CREDENTIALS.**—By July 1, 1995, for every 20 children in a licensed child care facility:

(a) *If the facility operates 16 hours or more per week and if the facility operates less than 16 hours per week and is not a part of a church or synagogue, one of the child care personnel in the facility must have:*

1.(a) A child development associate credential;

2.(b) A child care professional credential, unless the department determines that such child care professional credential is not equivalent to or greater than a child development associate credential; or

3.(c) A credential that is equivalent to or greater than the credential required in *subparagraph 1. or subparagraph 2. paragraph (a) or paragraph (b).*

(b) *If the facility operates less than 16 hours per week and is a part of a church or synagogue, one of the child care personnel in the facility must have successfully completed a competency examination developed by the department.*

The department shall establish by rule those hours of operation, such as during rest periods and transitional periods, when the provisions of this subsection does not apply.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 2, line 6, after the semicolon (;) insert: amending s. 402.305, F.S.; exempting the staff in part-time facilities that have specified characteristics from certain credentialing requirements; providing an alternative requirement for such a facility;

**Amendment 2** as amended was adopted.

On motion by Senator Ostalkiewicz, by two-thirds vote **SB 2368** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34      Nays—1

**SB 1812**—A bill to be entitled An act relating to illegal aliens; amending s. 287.012, F.S.; providing that, to be a “qualified bidder” with respect to providing personal property or services, a person must certify that he does not, and will not, employ illegal aliens, as defined; providing an effective date.

—was read the second time by title.

Senator Harden moved the following amendment:

**Amendment 1 (with title amendment)**—On page 1, between lines 26 and 27, insert:

Section 2. Unlawful transportation of illegal aliens; penalty; forfeiture.—

(1) It is unlawful to transport a person into this state knowing that the person is entering the United States in violation of the United States Immigration and Nationality Act.

(2) Any person who violates subsection (1) commits a felony of the second degree, punishable as provided in section 775.082, section 775.083, or section 775.084, Florida Statutes.

(3) Any vessel, vehicle, or aircraft that has been or is being used in violation of subsection (1) may be seized and forfeited under the Florida Contraband Forfeiture Act. However, this subsection does not apply to any vessel, vehicle, or aircraft exempt from seizure or forfeiture under section 932.703, Florida Statutes.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 7, after the semicolon (;) insert: providing a criminal penalty for transporting illegal aliens into the state; authorizing forfeiture proceedings;

On motion by Senator Harden, further consideration of **SB 1812** with pending **Amendment 1** was deferred.

Consideration of **SB 1278**, **SB 1274**, **CS for SB 222** and **CS for SB's 386, 732 and 1208** was deferred.

**CS for SB 892**—A bill to be entitled An act relating to traffic infractions; amending s. 28.241, F.S.; restricting enactment of additional service charges; amending s. 34.041, F.S.; restricting enactment of additional service charges; amending s. 34.191, F.S.; deleting an obsolete reference; amending s. 316.008, F.S.; conforming a reference; amending s. 316.027, F.S.; providing type of violation; amending s. 316.061, F.S.; providing type of violation; amending s. 316.063, F.S.; providing type of violation; amending s. 316.065, F.S.; providing type of violation; providing for penalties; amending s. 316.066, F.S.; providing for a certified traffic-records center in a county or multicounty area; amending s. 316.067, F.S.; providing a penalty for giving false information on an electronic report; amending s. 316.068, F.S.; requiring that an electronically produced accident report must contain the same information as is called for on those forms produced by the department; amending s. 316.069, F.S.; providing that the state will tabulate and analyze accident reports and maintain statistical data; amending s. 316.071, F.S.; providing for punishment in accordance with ch. 318, F.S.; amending s. 316.0741, F.S.; providing the type of violation; amending s. 316.1001, F.S.; conforming a reference; amending s. 316.1301, F.S.; conforming a reference; deleting a fine; amending s. 316.1303, F.S.; deleting a fine; amending s. 316.1305, F.S.; providing that fishing from a posted bridge is a pedestrian violation; amending s. 316.172, F.S.; providing that failure to stop for a school bus is a moving violation punishable as provided in ch. 318, F.S.; amending s. 316.183, F.S.; authorizing a municipality

—was read the second time by title.

Amendments were considered to conform **SB 666** to **CS for HB 309**.

Pending further consideration of **SB 666** as amended, on motions by Senator McKay, by two-thirds vote—

**CS for HB 309**—A bill to be entitled An act relating to ad valorem tax administration; amending s. 196.199, F.S.; providing for execution of tax executions issued with respect to taxes on leasehold interests in government property; amending s. 197.222, F.S.; providing that provisions authorizing prepayment of estimated tax by installment apply to each tax notice with taxes estimated to be more than \$100; amending s. 197.343, F.S.; revising requirements with respect to the additional notice of unpaid taxes; providing an effective date.

—a companion measure, was substituted for **SB 666** and by two-thirds vote read the second time by title. On motion by Senator McKay, by two-thirds vote **CS for HB 309** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33      Nays—None

On motion by Senator Bankhead, the House was requested to return **SB 792**.

On motion by Senator Jones, by two-thirds vote **CS for HB 769** was withdrawn from the Committees on Education; Criminal Justice; and Ways and Means.

On motion by Senator Jones, the rules were waived and—

**CS for HB 769**—A bill to be entitled An act relating to school safety; amending s. 23.1225, F.S., relating to mutual aid agreements; authorizing mutual aid agreements between school boards that employ school safety officers and law enforcement agencies; creating s. 230.23175, F.S.; defining “school safety officer” and providing for the powers, duties, qualifications, and compensation of such officers; authorizing the appointment of law enforcement officers as school safety officers to protect persons and property within a school district; amending s. 316.640, F.S., relating to enforcement of traffic laws of the state; authorizing school safety officers to enforce traffic laws under specified circumstances; repealing chapters 70-519, 75-486, 76-477, 81-464, 88-521, and 95-513, Laws of Florida, relating to special police officers for district school boards in specified counties, to conform to the act; providing an effective date.

—a companion measure, was substituted for **SB 820** and read the second time by title.

Senator Johnson moved the following amendment which was adopted:

**Amendment 1 (with title amendment)**—On page 7, between lines 9 and 10, insert:

Section 5. Section 230.23185, Florida Statutes, is amended to read:  
230.23185 Statewide crime watch program.—

(1) There may be created a statewide crime watch program in the public schools for the purpose of reducing student actions that are in violation of the code of student conduct. The goal of the program is to develop a crime watch program in each elementary school, middle school or junior high school, and high school. The Department of Education may establish for the program criteria that include:

(a)(1) Student involvement at each school in the design and implementation of the program.

(b)(2) A competitive focus with statewide recognition and awards given to schools with the most effective programs in each school district.

(2) A toll-free school safety hotline may be created and maintained to provide an avenue for students to report criminal activity, such as violations of the code of student conduct, and to enhance the safety and welfare of students, faculty, and staff.

(3)(a) Each school in the state must strive to provide crime-free and drug-free environments for learning, instill positive values, foster good citizenship, and build confidence in students.

(b) Each school is encouraged to provide drug-prevention and crime-prevention education, communication and reporting systems, student patrols, student mentoring programs, school bus safety projects, conflict resolution training, and student action projects.

(4)(a) The department may contract with the Florida Sheriffs Association to establish and operate a statewide toll-free school safety hotline for the purpose of reporting incidents that affect the safety and well-being of the school's population.

(b) The toll-free school safety hotline is to be a conduit for any person to anonymously report activity that affects the safety and well-being of the school's population.

(c) There may not be an award or monetary benefit for reporting an incident through the toll-free school safety hotline.

(d) The toll-free school safety hotline shall be operated in a manner that ensures that a designated school official is notified of a complaint received through the hotline if the complaint concerns that school. A complaint that concerns an actionable offense must be reported to the designated official within a reasonable time after the complaint is made. An actionable offense is an incident that could directly affect the safety or well-being of a person or property within a school.

(e) If a toll-free school safety hotline is established by contract with the Florida Sheriffs Association, the Florida Sheriffs Association shall produce a quarterly report that evaluates the incidents that have been reported to the hotline. This information may be used to evaluate future school safety educational needs and the need for prevention programs as the school board considers necessary.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 21, after the semicolon (;) insert: requiring the department to establish a statewide toll-free school safety hotline to be used to report incidents that affect the safety and well-being of a school's population; providing for reports to be made anonymously; requiring that a school official be notified of certain reports within a specified period; providing for quarterly reports;

On motion by Senator Jones, by two-thirds vote **CS for HB 769** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35      Nays—None

Consideration of **SB 2368** was deferred.

The Senate resumed consideration of—

**HB 157**—A bill to be entitled An act relating to fireworks; creating s. 791.012, F.S., providing that the outdoor display of fireworks in this state shall be governed by the NFPA 1123 Code for Fireworks Display, 1995 Edition; directing the Division of State Fire Marshal to make appropriate rules; determining an important state interest; providing an effective date.

—which was previously considered and amended April 29.

On motion by Senator Weinstein, **HB 157** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29      Nays—5

**SB 2368**—A bill to be entitled An act relating to child care facilities; amending s. 402.302, F.S.; redefining the term “child care facility” to exclude after-school recreational programs operated by certain agencies; creating s. 402.3059, F.S.; providing that certain licensing standards for

1. University of Florida.
2. University of South Florida.
3. University of Miami.
4. Miami Dade Community College.

(f) The course shall require no less than two 16-week semesters of 16 contact hours per week for a total of 256 contact hours per student for each semester. The cost is to be paid by the students taking the course.

(2)(a) Before the agency may issue a restricted license to an applicant under this section, the applicant must have passed either of the two examinations described in this section. However, the board may impose reasonable restrictions on the applicant's license to practice. These restrictions may include, but are not limited to:

1. Periodic and random agency audits of the licensee's patient records and review of those records by the board or the agency.
2. Periodic appearances of the licensee before the board or the agency.
3. Submission of written reports to the board or the agency.

(b) A restricted licensee under this section shall practice under the supervision of a full licensee approved by the board with the first year of the licensure period being under direct supervision as defined by board rule and the second year being under indirect supervision as defined by board rule.

(c) The board may adopt rules necessary to implement this subsection.

(3)(a) A restricted license issued by the agency under this section is valid for 2 years unless sooner revoked or suspended, and a restricted licensee is subject to the requirements of this chapter, chapter 455, and any other provision of law not in conflict with this section. Upon expiration of such restricted license, a restricted licensee shall become a full licensee if the restricted licensee:

1. Is not under discipline, investigation, or prosecution for a violation which poses a substantial threat to the public health, safety, or welfare; and
2. Pays all renewal fees required of a full licensee.

(b) The agency shall renew a restricted license under this section upon payment of the same fees required for renewal for a full license if the restricted licensee is under discipline, investigation, or prosecution for a violation which posed or poses a substantial threat to the public health, safety, or welfare and the board has not permanently revoked the restricted license. A restricted licensee who has renewed such restricted license shall become eligible for full licensure when the licensee is no longer under discipline, investigation, or prosecution.

(5) The board shall adopt rules necessary to carry out the provisions of this section.

Section 3. Subsection (5) of section 458.3145, Florida Statutes, is amended to read:

458.3145 Medical faculty certificate.—

(5) Notwithstanding subsection (1), any physician, when providing medical care or treatment in connection with the education of students, residents, or faculty at the request of the dean of an accredited medical school within this state or at the request of the medical director of a statutory teaching hospital as defined in s. 408.07, may do so upon registration with the board and demonstration of financial responsibility pursuant to s. 458.320(1) or (2) unless such physician is exempt under s. 458.320(5)(a). The performance of such medical care or treatment must be limited to a single period of time ~~in a calendar year~~, which ~~period of time~~ may not exceed 180 ~~30~~ consecutive days, and must be rendered within a facility registered under subsection (2) or within a statutory teaching hospital as defined in s. 408.07. A registration fee not to exceed \$300, as set by the board, is required of each physician registered under this subsection. However, no more than three physicians per year per institution may be registered under this subsection, and an

exemption under this subsection may not be granted to a physician more than once in any given 5-year period.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 5, after the semicolon (;), insert: creating s. 458.3115, F.S.; providing requirements for certain foreign-licensed physicians to obtain a restricted license to practice medicine in this state; requiring passing the United States Medical Licensing Examination, or an examination provided by the agency and board that tests the same areas of medical content and knowledge as the examination given by the Federation of State Medical Boards, and referred to as the FLEX; providing for fees; providing for restrictions on practice; providing conditions for transition to full licensure; providing rulemaking authority; amending s. 458.3145, F.S.; revising provisions that authorize physicians to provide care or treatment in connection with the education of students, residents, or faculty at accredited medical schools within the state; authorizing such care or treatment to be provided at statutory teaching hospitals; extending the time period for providing such care or treatment, but reducing the frequency with which a physician may be authorized to provide such care or treatment;

On motion by Senator Myers, by two-thirds vote **HB 1389** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37      Nays—None

### NON-CONTROVERSIAL SPECIAL ORDER CALENDAR, continued

The Senate resumed consideration of—

**SB 2354**—A bill to be entitled An act relating to neighborhood lottery schools; authorizing district school boards to pledge certain lottery moneys for the construction of neighborhood lottery schools; providing for notice and hearing; providing for issuing bonds; prescribing standards for neighborhood lottery schools; prescribing duties of the Division of Bond Finance and the Department of Education; providing an effective date.

—which was previously considered and amended this day.

### RECONSIDERATION OF AMENDMENTS

On motion by Senator Hargrett, the Senate reconsidered the vote by which **Amendment 3** was adopted.

Senator Hargrett moved the following amendment to **Amendment 3** which was adopted:

**Amendment 3A**—On page 2, line 8, after “program.—” insert: *By resolution of the school board,*

**Amendment 3** as amended was adopted.

On motions by Senator Sullivan, the Senate reconsidered the vote by which **Amendment 2**, **Amendment 2A**, **Amendment 2B** and **Amendment 4** were adopted. The amendments were withdrawn.

On motion by Senator Diaz-Balart, by two-thirds vote **SB 2354** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—24      Nays—6

### SPECIAL ORDER CALENDAR, continued

**SB 666**—A bill to be entitled An act relating to ad valorem tax administration; amending s. 196.199, F.S.; providing for service of tax executions issued with respect to taxes on leasehold interests in government property; amending s. 197.222, F.S.; providing that provisions authorizing prepayment of estimated tax by installment apply to each tax notice with taxes estimated to be more than \$100; amending s. 197.343, F.S.; revising requirements with respect to the additional notice of unpaid taxes; providing an effective date.

shall adopt rules for the administration of continuing education requirements adopted by the boards or the department when there is no board.

~~(8) The respective boards of the Division of Professions may adopt rules to provide for the use of approved videocassette courses, not to exceed 5 hours per subject, to fulfill the continuing education requirements of the professions they regulate. Such rules shall provide for prior board approval of the criteria for and content of such courses and shall provide for a videocassette course validation form to be signed by the vendor and the licensee and submitted to the department, along with the license renewal application, for continuing education credit.~~

(7)(9) Notwithstanding anything to the contrary, any elected official who is licensed pursuant to any practice act within the purview of this chapter may hold employment for compensation with any public agency concurrent with such public service. Such dual service shall be disclosed according to any disclosure required by applicable law.

Section 6. Section 455.2555, Florida Statutes, is hereby repealed.  
(Renumber subsequent section.)

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to the regulation of professions and occupations; amending ss. 458.317, 459.0075, F.S.; deleting a requirement that a physician or osteopathic physician be retired as a condition of being issued a limited license; amending s. 455.2141, F.S.; revising continuing medical education requirements relating to the number of hours of risk management or cost containment that may be required; authorizing the inclusion of a specified number of hours on other topics related to the applicable medical specialty; eliminating the requirement that equivalent national or state educational courses be considered in fulfillment of continuing medical education requirements; requiring each of certain medical boards to determine whether any specific course requirements not otherwise mandated by law shall be mandated and to approve criteria for, and the content of, any such course mandated by such board; amending ss. 240.215, 455.213, F.S., to conform; removing related provisions which have been repealed; repealing s. 455.2555, F.S., relating to a fee schedule imposed on providers of designated health services; providing an effective date.

Senator Myers moved the following amendments which were adopted:

**Amendment 2 (with title amendment)**—On page 2, between lines 30 and 31, insert:

Section 3. Paragraph (b) of subsection (3) of section 468.302, Florida Statutes, is amended to read:

468.302 Use of radiation; identification of certified persons; limitations; exceptions.—

(3)

(b) A basic X-ray machine operator or basic X-ray machine operator-podiatry may not practice radiologic technology in walk-in emergency centers, freestanding breast clinics, freestanding cancer clinics, state mental hospitals, state correctional institutions, or in any facility regulated under chapter 390, chapter 392, chapter 393, chapter 394, or chapter 641. For a facility licensed under chapter 395, a basic X-ray machine operator may only perform the procedures specified in paragraph (a) in a hospital with a capacity of 150 beds or less. If such a hospital has or acquires radiographic or fluoroscopic equipment other than general diagnostic radiographic and general fluoroscopic equipment, that hospital shall keep a record documenting which personnel performed each radiographic or fluoroscopic procedure. *For the purposes of this paragraph, a walk-in emergency center shall not include a physician-operated walk-in clinic that operates with or without appointments, with extended hours, and does not hold itself out to the public as an emergency center.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 7, after the semicolon (;) insert: amending s. 468.302, F.S.; providing an exemption for walk-in emergency centers;

**Amendment 3**—On page 2, line 31, delete "October" and insert: July

Senator Casas moved the following amendment which was adopted:

**Amendment 4 (with title amendment)**—On page 2, between lines 30 and 31, insert:

Section 2. Section 458.3115, Florida Statutes, is created to read:

458.3115 Restricted license; certain foreign-licensed physicians; United States Medical Licensing Examination (USMLE) or agency developed examination; restrictions on practice; full licensure.—

(1)(a) Notwithstanding any other provision of law, the agency shall provide procedures under which certain physicians who are or were foreign licensed and have practiced medicine no less than 5 years may take the USMLE or an agency and board developed examination to qualify for a restricted license to practice medicine in this state. The agency and board developed examination shall test the same areas of medical knowledge as the Federation of State Medical Boards (FLEX) previously administered by the Florida Board of Medicine to grant medical licensure in Florida. Said examination shall be in the same form and content and shall be administered in the same manner as the FLEX. A person who is eligible to take and elects to take the agency and board developed examination and who has previously passed part 1 or part 2 of the previously administered FLEX shall not be required to retake or pass the equivalent parts of the agency developed examination, and may sit for the agency and board developed examination 5 times within 5 years.

(b) A person who is eligible to take and elects to take the USMLE who has previously passed part 1 or part 2 of the previously administered FLEX shall not be required to retake or pass the equivalent parts of the USMLE up to the year 2,000.

(c) A person shall be eligible to take such examination for restricted licensure if the person:

1. Has taken, upon approval by the board, and completed, in November 1990 or November 1992, a special preparatory medical update course authorized by the board and the University of Miami Medical School and subsequently passed the final course examination and the MOCK FLEX examination; or upon approval by the Board to take the course completed in 1990, has a certificate of successful completion of that course from the University of Miami;

2. Applies to the agency and submits an application fee that is nonrefundable and equivalent to the fee required for full licensure;

3. Documents no less than 5 years of the active practice of medicine in another jurisdiction;

4. Submits an examination fee that is nonrefundable and equivalent to the fee required for full licensure plus the actual per-applicant cost to the agency to provide either examination described in this section;

5. Has not committed any act or offense in this or any other jurisdiction that would constitute a substantial basis for disciplining a physician under this chapter or chapter 455; and

6. Is not under discipline, investigation, or prosecution in this or any other jurisdiction for an act that would constitute a violation of this chapter or chapter 455 and that substantially threatened or threatens the public health, safety, or welfare.

(d) Every person eligible for restricted licensure under this section may sit for the USMLE or the agency and board developed examination five times within 5 calendar years. Applicants desiring to use portions of the FLEX and the USMLE may do so up to the year 2,000. However, notwithstanding subparagraph (c)3., applicants applying under this section who fail the examination up to a total of five times will only be required to pay the examination fee required for full licensure for the second and subsequent times they take the examination.

(e) The Agency for Health Care Administration shall be responsible for working with one or more of the following organizations listed immediately below to offer a medical refresher course designed to prepare applicants to take either licensure examination described in this section. The organizations may develop the medical refresher course, purchase such a course, or contract for such a course from a private organization that specializes in developing such courses.

And the title is amended as follows:

On page 2, line 13, after the semicolon (;) insert: requiring the Agency for Health Care Administration to comply with certain requirements in the provision of emergency services and care for Medicaid recipients and MediPass recipients;

**Amendment 3 (with title amendment)**—On page 15, lines 12-19, delete those lines and insert:

(10) The Agency for Health Care Administration is appropriated \$142,487 in nonoperating transfer authority from the Health Care Trust Fund to be transferred to the Department of Legal Affairs to implement the provisions of this act. Transferred funds shall be taken from the unappropriated cash balance available from licensure and renewal fees assessed on physicians regulated by the Division of Medical Quality Assurance.

(11) There is appropriated to the Department of Legal Affairs, Office of the Attorney General, \$142,487 from the Legal Services Trust Fund and two full-time equivalent positions to implement the provisions of this act.

And the title is amended as follows:

On page 2, line 25, following the semicolon (;) insert: providing an appropriation;

On motion by Senator Sullivan, by two-thirds vote **CS for SB 910** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34      Nays—None

On motions by Senator Myers, by unanimous consent—

**HB 1389**—A bill to be entitled An act relating to limited licensure of physicians; amending ss. 458.317 and 459.0075, F.S.; eliminating the requirement that a physician or osteopathic physician be retired as a condition of being issued a limited license; providing an effective date.

—a companion measure, was taken up out of order and substituted for **SB 2760** and by two-thirds vote read the second time by title.

Senators Ostalkiewicz and Myers offered the following amendment which was moved by Senator Ostalkiewicz and adopted:

**Amendment 1 (with title amendment)**—On page 2, between lines 30 and 31, insert:

Section 3. Subsection (5) of section 455.2141, Florida Statutes, is amended to read:

455.2141 Agency for Health Care Administration; general licensing provisions.—

(5) As a condition of renewal of a license, the Board of Medicine, the Board of Osteopathic Medicine, the Board of Chiropractic, and the Board of Podiatric Medicine shall each require licensees which they respectively regulate to periodically demonstrate their professional competency by completing at least 40 hours of continuing education every 2 years, which may include up to 1 hour 5 hours of risk management or cost containment and up to 2 hours of other topics related to the applicable medical specialty, if required by board rule. Each of such boards shall determine whether any specific course requirements not otherwise mandated by law shall be mandated and shall approve criteria for, and the content of, any course mandated by such board. Criteria for, and content of, continuing education courses shall be approved by the respective boards. The respective boards shall consider equivalent national or state educational courses, including those offered by a medical society or specialty organization, to fulfill part or all of the requirements of this subsection. The respective boards shall adopt rules to implement the provisions of this subsection.

Section 4. Subsection (3) of section 240.215, Florida Statutes, is amended to read:

240.215 Payment of costs of civil action against employees or members of the Board of Regents.—

(3) All faculty physicians employed by the Board of Regents who are subject to the requirements of s. 455.2141 ~~s. 455.213~~ shall complete ~~their, as part of the 5 hours of risk management continuing education on, at least 1 hour which shall address risk management~~ issues specific to academic medicine. Such continuing education shall include instruction for the supervision of resident physicians as required by the Accreditation Council for Graduate Medical Education. The boards described in s. 455.2141 ~~s. 455.213~~ shall adopt rules to implement the provisions of this subsection.

Section 5. Section 455.213, Florida Statutes, is amended to read:

455.213 General licensing provisions.—

(1) Any person desiring to be licensed shall apply to the department in writing to take the appropriate examination. The application shall be made on a form prepared and furnished by the department and shall be supplemented as needed to reflect any material change in any circumstance or condition stated in the application which takes place between the initial filing of the application and the final grant or denial of the license and which might affect the decision of the agency.

(2) Before the issuance of any license, the department may charge an initial license fee as determined by rule of the applicable board or, if no such board exists, by rule of the department. Upon receipt of the appropriate license fee, except as provided in subsection (3), the department shall issue a license to any person certified by the appropriate board, or its designee, or the department when there is no board, as having met the applicable requirements imposed by law or rule.

(3) The board, or the department when there is no board, may refuse to issue an initial license to any applicant who is under investigation or prosecution in any jurisdiction for an action that would constitute a violation of this chapter or the professional practice acts administered by the department and the boards, until such time as the investigation or prosecution is complete.

(4) When any hearing officer conducts a hearing pursuant to the provisions of chapter 120 with respect to the issuance of a license by the department, the hearing officer shall submit his recommended order to the appropriate board, which shall thereupon issue a final order. The applicant for a license may appeal the final order of the board in accordance with the provisions of chapter 120.

(5) A privilege against civil liability is hereby granted to any witness for any information furnished by the witness in any proceeding pursuant to this section, unless the witness acted in bad faith or with malice in providing such information.

~~(6) As a condition of renewal of a license, the Board of Medicine, the Board of Osteopathic Medicine, the Board of Chiropractic, and the Board of Podiatric Medicine shall each require licensees which they respectively regulate to periodically demonstrate their professional competency by completing at least 40 hours of continuing education every 2 years, of which at least 5 hours shall concern risk management. Criteria for, and content of, continuing education courses shall be approved by the respective boards. The respective boards shall consider equivalent national or state educational courses, including those offered by a medical society or specialty organization, to fulfill part or all of the requirements of this subsection. The respective boards shall adopt rules to implement the provisions of this subsection.~~

(6)(7) Any board that currently requires continuing education for renewal of a license shall adopt rules to establish the criteria for continuing education courses. The rules may provide that up to a maximum of 25 percent of the required continuing education hours can be fulfilled by the performance of pro bono services to the indigent or to underserved populations or in areas of critical need within the state where the licensee practices. The board, or the department when there is no board, must require that any pro bono services be approved in advance in order to receive credit for continuing education under this section. The standard for determining indigency shall be that recognized by the Federal Poverty Income Guidelines produced by the United States Department of Health and Human Services. The rules may provide for approval by the board, or the department when there is no board, that a part of the continuing education hours can be fulfilled by performing research in critical need areas or for training leading to advanced professional certification. The board, or the department when there is no board, may make rules to define underserved and critical need areas. The department

403.707, F.S.; providing for clarification of permitting authority; amending s. 403.727, F.S.; deleting language with regard to biomedical waste; repealing s. 403.708(1)(d), F.S., relating to registration of transporters of biomedical waste; repealing s. 403.7084, F.S., relating to a tracking system for hazardous waste; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 228** and read the second time by title. On motion by Senator Dyer, by two-thirds vote **CS for HB 153** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30      Nays—1

On motions by Senator McKay, by two-thirds vote—

**HB 803**—A bill to be entitled An act relating to the administration and collection of taxes; amending s. 212.18, F.S.; authorizing the Department of Revenue to appoint the county tax collector as an agent of the department for purposes of accepting applications for registration as a dealer under ch. 212, F.S.; authorizing the Department of Revenue to contract with the county tax collector for purposes of collecting delinquent taxes, penalties, and interest; requiring the tax collector to provide notice before commencing litigation to recover a delinquent tax; providing for compensating the tax collector for collection services; authorizing the department to share confidential information with the tax collector; requiring the tax collector to maintain the confidentiality of such information; providing a penalty; declaring an important state interest; providing an effective date.

—a companion measure, was substituted for **SB 486** and by two-thirds vote read the second time by title. On motion by Senator McKay, by two-thirds vote **HB 803** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34      Nays—None

**CS for SB 910**—A bill to be entitled An act relating to health care; creating s. 627.6045, F.S.; providing certain limitations for a preexisting-condition provision included in a health insurance policy; exempting certain short-term nonrenewable health insurance policies; requiring notice to applicants for short-term nonrenewable health insurance policies; clarifying that limitations for a preexisting condition are inapplicable to disability income insurance and income replacement insurance coverage; creating s. 627.6425, F.S.; providing for renewability of individual coverage; exempting certain short-term nonrenewable health insurance policies; amending s. 641.19, F.S., relating to the Health Maintenance Organization Act; defining the term “emergency services and care” for purposes of the act; amending s. 641.47, F.S.; defining the terms “emergency medical condition” and “emergency services and care” for purposes of part III of ch. 641, F.S.; amending s. 641.315, F.S.; prescribing additional conditions that must be included in health maintenance organization provider contracts; amending s. 641.3903, F.S.; proscribing additional unfair practices by health maintenance organizations with respect to misrepresentations made to prospective enrollees; creating s. 627.6141, F.S.; prescribing an appeals process upon denial of a claim under certain health plans; requiring health maintenance organizations and exclusive provider organizations to provide certain information to prospective enrollees; creating s. 641.513, F.S.; prescribing requirements with respect to emergency services and care; amending s. 395.1041, F.S.; authorizing a hospital to obtain insurance and financial information from a patient under certain circumstances; deleting a requirement that a hospital provide emergency services and care without questioning the patient’s ability to pay; creating the “Florida Health Care Community Antitrust Act”; providing that members of the health care community may seek a statement from the Attorney General’s Office that it will take no antitrust action with respect to proposed business activities; repealing s. 455.2555, F.S., which imposes fees on providers of designated health services for services provided to recipients who are ineligible for specified benefits under certain provisions of the Social Security Act; providing for retroactive operation of such repeal; providing an effective date.

—was read the second time by title.

Senator Sullivan moved the following amendment:

**Amendment 1 (with title amendment)**—On page 11, lines 9-21, delete those lines and insert:

(4) A subscriber may be charged a reasonable copayment, as provided in s. 641.31(12), for the use of an emergency room, except for Medicaid recipients. Nothing in this section is intended to prohibit or limit application of a nominal copayment as provided in s. 409.9081 for the use of an emergency room for services other than emergency services and care.

(5) Reimbursement for services under this section provided to subscribers who are not Medicaid recipients by a provider for whom no contract exists between the provider and the health maintenance organization shall be the lesser of:

(a) The provider’s charges;

(b) The usual and customary provider charges for similar services in the community where the services were provided; or

(c) The charge mutually agreed to by the health maintenance organization and the provider within 60 days after the submittal of the claim.

(6) Reimbursement for services under this section provided to subscribers who are Medicaid recipients by a provider for whom no contract exists between the provider and the health maintenance organization shall be the lesser of:

(a) The provider’s charges;

(b) The usual and customary provider charges for similar services in the community where the services were provided;

(c) The charge mutually agreed to by the entity and the provider within 60 days after submittal of the claim; or

(d) The Medicaid rate.

And the title is amended as follows:

On page 2, line 6, after the semicolon (;) insert: providing a procedure for reimbursement for services rendered by noncontract providers to managed care subscribers and Medicaid recipients;

Senator Sullivan moved the following amendment to **Amendment 1** which was adopted:

**Amendment 1A**—On page 2, between lines 3 and 4, insert:

Such reimbursement shall be net of any applicable copayment authorized pursuant to subsection (4).

**Amendment 1** as amended was adopted.

Senator Sullivan moved the following amendments which were adopted:

**Amendment 2 (with title amendment)**—On page 12, between lines 14 and 15, insert:

Section 11. Subsection (14) is added to section 409.912, Florida Statutes, to read:

409.912 Cost-effective purchasing of health care.—The department shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The department shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies designed to facilitate the cost-effective purchase of a case-managed continuum of care. The department shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(14) The agency and entities which contract with the agency to provide health care services to Medicaid recipients under this section or s. 409.9122, must comply with the provisions of s. 641.513 in providing emergency services and care to Medicaid recipients and MediPass recipients.

(Renumber subsequent sections.)



to 11 credit hours may receive up to three-fourths of the maximum award; and students enrolled for 12 or more credit hours may receive up to the full award.

(4) Students may renew a scholarship for their sophomore, junior, and senior years of undergraduate study. To do so, the student must:

(a) Maintain at least a 3.0 cumulative grade point average on a 4.0 scale.

(b) Be making satisfactory academic progress.

(c) Have used, within a maximum period of 5 years from the date of high school graduation, less than the maximum number of semesters of eligibility as determined by the department. The department may waive this paragraph for students who demonstrate that compliance would entail extraordinary hardship.

(5) A student planning to attend an eligible postsecondary institution must comply with any application requirements established by the institution. Upon verifying that the student meets eligibility criteria established in this section, the eligible institution shall submit to the department a request for the appropriate level of payment. The department shall establish the necessary data to be reported and a date by which such requests for payment are due each semester. Late requests shall be honored by the department to the extent that funds are available after all timely requests have been funded.

(6) The department shall adopt rules as necessary to implement and administer the Florida Postsecondary Tuition Program.

(7) The program shall be implemented to the extent authorized annually in the General Appropriations Act. If funds are insufficient to provide the full amount of scholarships authorized in this section to each eligible applicant, the department may prorate available funds and make a partial award to each eligible applicant.

Section 4. Upon the enactment and funding of the Florida Postsecondary Tuition Program, no further initial year awards shall be made through the Florida Undergraduate Scholars' Program pursuant to section 240.402, Florida Statutes, or through the Vocational Gold Seal Endorsement Scholarship Program pursuant to section 240.4021, Florida Statutes. Eligible renewal students shall continue to receive awards through their maximum terms of eligibility.

Section 5. The criteria for the use of scholarship funds which apply to students under the Florida Postsecondary Tuition Program shall also apply to the children of deceased or disabled veterans who receive scholarships under chapter 295, Florida Statutes.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 3, after the semicolon (;) insert: amending s. 24.121, F.S.; requiring school district reporting of expenditures of lottery funds; creating s. 240.4024, F.S.; creating the Florida Postsecondary Tuition Program; providing eligibility, types of assistance, application process, and funding; restricting awards through the Florida Undergraduate Scholars' Program and the Vocational Gold Seal Endorsement Scholarship Program upon funding of the Florida Postsecondary Tuition Program; providing criteria for use of scholarship funds by certain students;

Senator Sullivan moved the following amendments to **Amendment 2** which were adopted:

**Amendment 2A**—On page 3, line 4, delete "3.2" and insert: 3.0

**Amendment 2B (with title amendment)**—On page 5, lines 23-30, delete those lines and renumber subsequent sections.

And the title is amended as follows:

On page 6, lines 19-23, delete those lines and insert: application process, and funding;

**Amendment 2** as amended was adopted.

Senator Hargrett moved the following amendment which was adopted:

**Amendment 3 (with title amendment)**—On page 3, between lines 2 and 3, insert:

Section 2. Paragraph (f) of subsection (1) of section 230.2318, Florida Statutes, is amended to read:

230.2318 School resource officer program.—

(1) **SCHOOL RESOURCE OFFICER PROGRAM.**—There is hereby created a statewide school resource officer program. It is the intent of the Legislature in establishing this program that the state provide assistance to local school boards in the form of matching grants for the establishment, continuation, or expansion of cooperative programs with law enforcement and community agencies for the following purposes:

(f) To provide information about crime prevention, and to promote student crime-watch programs in the schools.

Section 3. Paragraph (e) is added to subsection (6) of section 230.23, Florida Statutes, to read:

230.23 Powers and duties of school board.—The school board, acting as a board, shall exercise all powers and perform all duties listed below:

(6) **CHILD WELFARE.**—Provide for the proper accounting for all children of school age, for the attendance and control of pupils at school, and for proper attention to health, safety, and other matters relating to the welfare of children in the following fields, as prescribed in chapter 232.

(e) *Student crime-watch program.*—Implement a student crime-watch program to promote responsibility among students and to assist in the control of criminal behavior within the schools.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, lines 2-11, delete those lines and insert: An act relating to schools; authorizing district school boards to pledge certain lottery moneys for the construction of neighborhood lottery schools; providing for notice and hearing; providing for issuing bonds; prescribing standards for neighborhood lottery schools; prescribing duties of the Division of Bond Finance and the Department of Education; amending s. 230.2318, F.S.; amending the list of programs entitled to state funding as part of the school resource officer program to include the promotion of student crime-watch programs; amending s. 230.23, F.S.; amending the list of powers and duties of school boards by adding the implementation of a student crime-watch program; providing an effective date.

Senator Sullivan moved the following amendment which was adopted:

**Amendment 4**—In title, on page 1, lines 1 and 2, delete "neighborhood lottery schools" and insert: education

On motion by Senator Diaz-Balart, further consideration of **SB 2354** as amended was deferred.

## **SPECIAL ORDER CALENDAR, continued**

On motion by Senator Dyer, by two-thirds vote **CS for HB 153** was withdrawn from the Committees on Natural Resources; Health Care; and Ways and Means.

On motion by Senator Dyer—

**CS for HB 153**—A bill to be entitled An act relating to the regulation and transport of biomedical waste; amending s. 381.0098, F.S.; providing for the Department of Health and Rehabilitative Services to regulate transport of biomedical waste; providing for the Department of Environmental Protection to regulate disposal of biomedical waste; clarifying provisions relating to the need, fees, term, and notice requirements of a permit from the Department of Environmental Protection; defining the need for a hazardous waste tracking system; providing for the regulatory transition of hazardous waste transporters; directing the Departments of Health and Rehabilitative Services and Environmental Protection to establish an interagency agreement; providing specific conditions of interagency agreement; amending s. 403.702, F.S.; providing clarification of authority for transport regulation; amending s. 403.704, F.S.; providing clarification of authority for disposal regulation; amending s.

Yeas—36      Nays—None

On motion by Senator Turner, by unanimous consent—

**HB 27**—A bill to be entitled An act relating to road designations; designating a portion of State Road 112 in Dade County as the Dewey Knight, Jr., Memorial Highway; providing an effective date.

—was taken up out of order and read the second time by title. On motion by Senator Turner, by two-thirds vote **HB 27** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34      Nays—None

**SB 2354**—A bill to be entitled An act relating to neighborhood lottery schools; authorizing district school boards to pledge certain lottery moneys for the construction of neighborhood lottery schools; providing for notice and hearing; providing for issuing bonds; prescribing standards for neighborhood lottery schools; prescribing duties of the Division of Bond Finance and the Department of Education; providing an effective date.

—was read the second time by title.

The Committee on Education recommended the following amendment which was moved by Senator Diaz-Balart and adopted:

**Amendment 1 (with title amendment)**—On page 3, between lines 2 and 3, insert:

Section 2. Section 236.39, Florida Statutes, is amended to read:

236.39 Notice of election; qualifications of electors.—The said school board shall also, at the meeting at which is passed the resolution provided for in s. 236.37, order that an election shall be held in the school district to determine whether or not there shall be issued by the district the bonds provided for in such resolution, in which election only the duly qualified electors thereof shall vote; and prior to the time of holding such election, the school board shall cause to be published at least once each week for 2 consecutive weeks in a newspaper published in the district a notice of the holding of such election, which shall specify the time and place or places of the holding thereof. The resolution prescribed in s. 236.37 may be incorporated in and published as a part of the notice prescribed in this section. *Notwithstanding the provisions of this section, no election shall be required in order to pledge lottery funds from the Educational Enhancement Trust Fund for bonds as provided in section 1 of this act.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 10, after the semicolon (;) insert: amending s. 236.39, F.S.; providing an exemption from requirements for an election;

Senator Sullivan moved the following amendment:

**Amendment 2 (with title amendment)**—On page 3, between lines 2 and 3, insert:

Section 2. Paragraph (e) is added to subsection (5) of section 24.121, Florida Statutes, to read:

24.121 Allocation of revenues and expenditure of funds for public education.—

(5)

(e) *Each school district shall, on a quarterly basis, make available to the public and distribute, in an easy-to-understand format, the expenditures of lottery funds allocated to the school district.*

Section 3. Section 240.4024, Florida Statutes, is created to read:

240.4024 Florida Postsecondary Tuition Program.—

(1) The Florida Postsecondary Tuition Program is hereby created to reward outstanding high school students with financial assistance in

degree, diploma, or certificate programs at any Florida public university, community college, or technical institute. This financial assistance shall be in the form of scholarships and may be used to assist with the cost of education, not to exceed the cost of tuition, mandatory fees, and books. Except as otherwise provided in this section, the scholarship shall cover the full cost of tuition subject to the availability of funds. The scholarship may not be used for remedial courses.

(2) In order to be eligible to receive a scholarship under the Florida Postsecondary Tuition Program, an initial-year applicant must:

(a) Be a Florida resident.

(b) Receive a Florida high school diploma, or its equivalent as described in s. 229.814, in or after 1996. Any student who is enrolled on a full-time basis in the early admission program of an eligible postsecondary institution or has attended a home education program during grade levels 9 through 12 according to the provisions of s. 232.02(4) shall be exempt from this requirement. Also exempt shall be the dependents of Florida residents who are on military or public service assignments away from Florida when such dependents live with such Florida residents and receive high school diplomas from non-Florida schools.

(c) Have not been convicted of a felony.

(d)1. At the time of application or by the end of the senior year, have been enrolled in, and intend to complete, a college preparatory curriculum, have an unweighted grade point average of 3.0 or above on a 4.0 scale, and have attained at least the minimum score established by the Department of Education on the American College Test or the Scholastic Assessment Test;

2. At the time of application or by the end of the senior year, have been enrolled in a curriculum other than a college preparatory curriculum, have an unweighted grade point average of 3.2 or above on a 4.0 scale, and have attained at least the minimum score established by the department on the American College Test or the Scholastic Assessment Test;

3. At the time of application, be a home education program student, or a high school equivalency diploma recipient, who has attained at least the minimum score established by the department on the American College Test or the Scholastic Assessment Test.

(e) Utilize an initial scholarship by the date established by the department.

(3) Students may receive annual awards for the first 30 semester credit hours attempted at any eligible Florida postsecondary educational institution. As used in this section, the term "eligible Florida postsecondary institution" means an institution within the State University System, the community college system, or a public vocational-technical institution. The maximum amount of the award shall include tuition, mandatory fees, and a book allowance of up to \$300, except that students who receive a grade point average of 3.5 on a 4.0 scale, or above, in a college preparatory curriculum may receive a higher award as determined by the department. Awards shall be disbursed in equal installments each academic term. Full-time enrollment shall not be required. Awards through this program may be made to degree-seeking students enrolled for a minimum of 6 credit hours who meet the general requirements for student eligibility as provided in this section. Students enrolled for 6 to 8 credit hours may receive up to one-half of the maximum award; students enrolled for 9 to 11 credit hours may receive up to three-fourths of the maximum award; and students enrolled for 12 or more credit hours may receive up to the full award.

(a) A scholarship shall be awarded prior to the certification or award of a federal family education loan or federal direct loan and shall be considered in the certification or calculation of the student's loan eligibility.

(b) Students attending a Florida public technical institute in order to earn a certificate or diploma may qualify for tuition scholarships for the cost of tuition, mandatory fees, and up to \$150 per semester for a book allowance. Awards through this program may be made to students enrolled for a minimum of 6 credit hours in a job preparatory vocational program who meet the general requirements for student eligibility as provided in this section. Students enrolled for 6 to 8 credit hours may receive up to one-half of the maximum award; students enrolled for 9

**Amendment 8**—On page 3, between lines 24 and 25, insert:

Section 2. A vehicle title loan task force is created to conduct a review of the practices of the industry in order to make recommendations to the Legislature as to the necessity of changing current regulations of the industry from a consumer protection perspective. As part of the review, the task force will identify the extent of consumer abuses, if any, and any other unfair trade practices. The task force shall conduct a minimum of four meetings to hear public testimony. The Governor shall appoint one member who is a representative of the industry. The Department of Agriculture and Consumer Services, the Department of Banking and Finance, and the Department of Legal Affairs shall each appoint two representatives to serve on the task force. The Department of Agriculture and Consumer Services shall designate one of the representatives to serve as the chairperson of the task force.

(Renumber subsequent sections.)

On motion by Senator Brown-Waite, further consideration of **SB 1118** with pending **Amendment 8** was deferred.

**SB 942**—A bill to be entitled An act relating to electronic signatures; creating the "Electronic Signature Act of 1996"; providing legislative intent; amending s. 1.01, F.S.; revising a definition; providing definitions; authorizing electronic signatures for certain purposes; authorizing the Secretary of State to be a certification authority for certain purposes; authorizing the Secretary of State to impose a fee for certain expenses; requiring each agency head to adopt and implement certain control processes and procedures for certain purposes; requiring the Secretary of State to conduct a study and report to the Legislature; providing an effective date.

—was read the second time by title. On motion by Senator Sullivan, by two-thirds vote **SB 942** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34      Nays—None

On motions by Senator Casas, by two-thirds vote—

**CS for HB 1861**—A bill to be entitled An act relating to inmate education records; amending s. 229.8075, F.S.; requiring the Department of Education to match certain inmate records with specified educational and occupational information with respect to inmates; amending s. 944.801, F.S.; requiring the Correctional Education Program under the Department of Corrections to develop and report certain statistics on inmates; providing an effective date.

—a companion measure, was substituted for **CS for SB 2276** and by two-thirds vote read the second time by title. On motion by Senator Casas, by two-thirds vote **CS for HB 1861** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32      Nays—None

**CS for SB 1940**—A bill to be entitled An act relating to public nuisances; amending s. 60.05, F.S.; allowing the eviction of tenants for public nuisances; amending s. 823.10, F.S.; providing procedures; providing an effective date.

—was read the second time by title. On motion by Senator Wexler, by two-thirds vote **CS for SB 1940** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36      Nays—None

The Senate resumed consideration of—

**SB 1860**—A bill to be entitled An act relating to post-delivery health care for mothers and their newborn infants; amending ss. 627.6406, 627.6574, 641.31, F.S.; requiring certain health insurance policies and health maintenance contracts to provide coverage for post-delivery care for a mother and her newborn infant if they qualify for early discharge from a health care facility; specifying services that must be included;

defining the term "early discharge"; requiring the Agency for Health Care Administration to conduct a study to evaluate the clinical effects of shorter stays in the hospital for maternity care; specifying the subject matter of the study; requiring a report; providing applicability; providing an effective date.

—which was previously considered this day. Pending **Amendment 1** as amended was adopted.

On motion by Senator McKay, by two-thirds vote **SB 1860** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35      Nays—None

Consideration of **CS for SB 1950** was deferred.

**SB 2830**—A bill to be entitled An act relating to domestic violence; amending s. 784.035, F.S.; providing that with respect to battery as domestic violence, a third or subsequent conviction for battery constitutes a felony of the third degree, notwithstanding a suspension of sentence or withholding of adjudication; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote **SB 2830** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32      Nays—None

**SB 2778**—A bill to be entitled An act relating to public health; amending s. 381.006, F.S.; expanding provisions relating to the migrant labor function of the environmental health program conducted by the Department of Health and Rehabilitative Services; providing an effective date.

—was read the second time by title.

The Committee on Health Care recommended the following amendment which was moved by Senator Brown-Waite and adopted:

**Amendment 1**—On page 1, lines 21-24, delete those lines and insert: *migrant housing. The inspection schedule shall be every six months during periods of occupancy to ensure that facilities are in compliance with health code standards. Additional inspections shall be conducted when there is reason*

On motion by Senator Beard, by two-thirds vote **SB 2778** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33      Nays—None

## MOTION

On motion by Senator Jennings, by two-thirds vote **HB 27** was withdrawn from the Committee on Transportation and placed on the Non-Controversial Special Order Calendar.

The Senate resumed consideration of—

**SB 1118**—A bill to be entitled An act relating to motor vehicles; amending s. 319.14, F.S.; including nonconforming vehicles within a group of vehicles which must have certain information included on the certificate of title; providing a definition; providing a penalty; providing an effective date.

—which was previously considered and amended this day. Pending **Amendment 8** by Senators Dudley and Williams was adopted.

On motion by Senator Johnson, by two-thirds vote **SB 1118** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

with respect to gross income for child support purposes, that gross income includes court-ordered spousal support in the marriage before the court; providing that an allowable deduction from gross income shall be spousal support paid pursuant to a court order from a previous marriage or the marriage before the court; revising language with respect to minimum child support awards; amending s. 751.011, F.S.; expanding definition of "extended family" to include uncle; amending s. 61.181, F.S.; requiring the Department of Revenue to take necessary action so that the depository may receive certain federal reimbursement moneys; extending the period for increased fees for support payments; requiring electronic funds transfer; requiring that depository fees be set forth in support orders; providing guidelines for collection of fees for support payments; providing for distribution of support to long-term care agencies under certain circumstances; providing for imposition of final judgment by operation of law against an obligor under certain circumstances when unpaid fees and costs exceed \$50; providing for a program audit by the Office of Program Analysis and Government Accountability; providing an effective date.

—a companion measure, was substituted for **SB 2494** and by two-thirds vote read the second time by title. On motion by Senator Weinstein, by two-thirds vote **CS for HB 1087** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35      Nays—None

## MOTION

On motion by Senator Williams, the House was requested to return **CS for HB 2241**.

On motion by Senator Jones, by two-thirds vote **HB 2569** was withdrawn from the Committee on Natural Resources.

On motion by Senator Jones—

**HB 2569**—A bill to be entitled An act relating to state lands; naming the Windley Key Fossil Reef State Geological Site Environmental Education/Interpretive Center as the "Alison Fahrer Environmental Education/Interpretive Center"; providing for the erection of appropriate markers; providing an effective date.

—a companion measure, was substituted for **SB 2344** and read the second time by title. On motion by Senator Jones, by two-thirds vote **HB 2569** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35      Nays—None

**SB 2188**—A bill to be entitled An act relating to the auditing and accounting duties of the Comptroller; amending s. 24.115, F.S.; providing a formula for the payment of certain debts out of lottery prizes; amending s. 40.30, F.S.; authorizing the State Courts Administrator to appoint a designee to endorse certain requisitions; amending s. 61.1301, F.S.; providing that the notice to the payor with respect to income deduction orders shall include the obligor's social security number; amending s. 110.113, F.S.; providing that certain state employees are required to participate in the direct deposit program; providing exceptions; amending s. 112.061, F.S.; providing that the Comptroller shall establish a schedule for processing Class C travel subsistence payments at least on a monthly basis; amending s. 215.422, F.S.; providing for requirements with respect to procurement contracts and purchase orders; providing for review by the Comptroller; amending s. 215.422, F.S.; conforming to the act with respect to Class C travel; conforming the act with respect to lottery prizes; amending s. 216.271, F.S.; providing that the purposes and uses of a revolving fund may not be changed without the prior approval of the Comptroller; providing an effective date.

—was read the second time by title.

Amendments were considered to conform **SB 2188** to **CS for HB 1375**.

Pending further consideration of **SB 2188** as amended, on motions by Senator Harden, by two-thirds vote—

**CS for HB 1375**—A bill to be entitled An act relating to the auditing and accounting duties of the Comptroller; amending s. 24.115, F.S.; providing a formula for the payment of certain debts out of lottery prizes; amending s. 40.30, F.S.; authorizing the State Courts Administrator to appoint a designee to endorse certain requisitions; amending s. 61.1301, F.S.; providing that the notice to the payor with respect to income deduction orders shall include the obligor's social security number; amending s. 110.113, F.S.; providing that certain state employees are required to participate in the direct deposit program; providing exceptions; amending s. 112.061, F.S.; providing that the Comptroller shall establish a schedule for processing Class C travel subsistence payments at least on a monthly basis; amending s. 215.422, F.S.; conforming to the act with respect to Class C travel; conforming the act with respect to lottery prizes; amending s. 216.271, F.S.; providing that the purposes and uses of a revolving fund may not be changed without the prior approval of the Comptroller; providing an effective date.

—a companion measure, was substituted for **SB 2188** and by two-thirds vote read the second time by title. On motion by Senator Harden, by two-thirds vote **CS for HB 1375** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35      Nays—None

The Senate resumed consideration of—

**SB 1118**—A bill to be entitled An act relating to motor vehicles; amending s. 319.14, F.S.; including nonconforming vehicles within a group of vehicles which must have certain information included on the certificate of title; providing a definition; providing a penalty; providing an effective date.

—which was previously considered this day. Pending **Amendment 2** by Senator Brown-Waite was adopted.

Senator Brown-Waite moved the following amendments which were adopted:

**Amendment 3**—On page 1, line 24, and on page 2, line 4, after "stamped" insert: "Manufacturer's Buy Back"

**Amendment 4**—On page 2, between lines 26 and 27, insert:

5. "Settlement" means an agreement entered into between a manufacturer and a consumer that occurs after a dispute is submitted to an informal dispute settlement procedure established by a manufacturer or is approved for arbitration before the New Motor Vehicle Arbitration Board as defined in s. 681.102.

**Amendment 5**—On page 3, lines 25 and 26, delete "upon becoming a law." and insert: October 1, 1996.

**Amendment 6 (with title amendment)**—On page 3, between lines 24 and 25, insert:

(8) Subsections (1), (2), and (3) do not apply to the transfer of ownership of a motor vehicle after the motor vehicle has ceased to be used as a lease vehicle and the ownership has been transferred to an owner for private use or to the transfer of ownership of a nonconforming vehicle with 36,000 or more miles on its odometer, or 34 months whichever is later and the ownership has been transferred to an owner for private use. Such owner, as shown on the title certificate, may request the department to issue a corrected certificate of title that does not contain the statement of the previous use of the vehicle as a lease vehicle or condition as a nonconforming vehicle.

And the title is amended as follows:

On page 1, line 7, after the semicolon (;) insert: providing for an exception;

**Amendment 7**—On page 1, line 11, delete that line and insert:

Section 1. Subsections (1), (2), (3), (7), and (8) of

Senators Dudley and Williams offered the following amendment which was moved by Senator Williams:

and public food service establishments for purposes of required inspections to the division alone, and not its agent; providing for storage of any food or food product that may have contributed to a food-borne illness until the responsible health authority examines, samples, seizes, or requests destruction of the food or food product; authorizing the division to supervise any such destruction; creating s. 509.049, F.S.; requiring the division to adopt by rule minimum food safety protection standards for the training of food service employees; requiring the licensees of public food service establishments or designated certified food service managers to provide training in accordance with the rule to all employees under their supervision or control; amending s. 509.072, F.S.; limiting uses of moneys deposited into the Hotel and Restaurant Trust Fund from the fee assessed against public lodging and public food service establishments to fund the Hospitality Education Program; amending s. 509.101, F.S.; requiring operators of public food service establishments to maintain their latest food service inspection report or a copy thereof on premises and make it available to the public upon request; amending s. 509.221, F.S.; revising provisions relating to the number of bathrooms each public lodging establishment and each public food service establishment is required to maintain; amending s. 509.251, F.S.; eliminating reference to certain fee adjustments based on the number of previous year's sanitation and safety inspections required of the public lodging establishment or public food service establishment; providing delinquent fees applicable to license renewals filed with the division during an additional period after the expiration date; eliminating reference to reinstatement fees; amending s. 509.291, F.S.; changing composition of the advisory council; amending s. 509.302, F.S.; prescribing additional duties of the Director of the Division of Hotels and Restaurants and the director of education of the Hospitality Education Program; authorizing the program to affiliate with members of the State University System, State Community College System, or a privately funded college or university; providing budgetary requirements for the program; revising provisions relating to funding, availability, and oversight of school-to-career transition programs in the hospitality services field; authorizing the development of food safety training programs; providing annual funding for the development of food safety training programs and nontransient public lodging training programs; providing an effective date.

—a companion measure, was substituted for **CS for SB 176** and read the second time by title.

Senator Kirkpatrick moved the following amendment which was adopted:

**Amendment 1 (with title amendment)**—On page 15, between lines 4 and 5, insert:

Section 11. Subsection (6) of section 509.215, Florida Statutes, is amended to read:

509.215 Firesafety.—

(6)(a) Special exception to the provisions of this section shall be made for a public lodging establishment structure ~~hotel structures~~ that is ~~are~~ individually listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended; or is a contributing property to a National Register-listed district; or is designated as a historic property, or as a contributing property to a historic district under the terms of a local preservation ordinance ~~are on the National Register of Historic Places as determined by the United States Department of the Interior or that are of historical significance to this state as determined by the State Historic Preservation Officer, designated pursuant to s. 267.061(5), after consultation with the chairperson of the local historic preservation board or commission, if such board or commission exists.~~

(b) For such structures, provisions shall be made for a system of fire protection and lifesafety support that would meet the intent of the NFPA standards and be acceptable to, and approved by, a task force ~~commission~~ composed of the director of the Division of Hotels and Restaurants, the director of the Division of State Fire Marshal, and the State Historic Preservation Officer. When recommending alternative systems, the task force shall consider systems which would not disturb, destroy, or alter the integrity of such historic structures. The director of the Division of State Fire Marshal shall be designated chairperson of the task force ~~commission~~ and shall record the minutes of each task force ~~commission~~ meeting, which shall be called in a timely manner to review requests for special provision considerations under this subsection.

(c) The task force shall, no later than November 1, 1996, report to the President of the Senate and the Speaker of the House of Representatives any legislative recommendations for providing a standard system of fire protection and lifesafety support alternatives for historic public lodging establishments, including bed and breakfast inns, that would meet the intent of the NFPA standards. In making its report the task force shall consider which, if any, bed and breakfast inn operations may be exempted from the firesafety requirements of this section.

Section 12. Paragraph (f) of subsection (1) of section 509.242, Florida Statutes, is amended, and paragraph (h) is added to said subsection, to read:

509.242 Public lodging establishments; classifications.—

(1) A public lodging establishment shall be classified as a hotel, motel, resort condominium, nontransient apartment, transient apartment, rooming house, *bed and breakfast inn*, or resort dwelling if the establishment satisfies the following criteria:

(f) Roominghouse.—A roominghouse is any public lodging establishment that may not be classified as a hotel, motel, resort condominium, nontransient apartment, *bed and breakfast inn*, or transient apartment under this section. A roominghouse includes, but is not limited to, a boarding house, ~~hostel, and bed and breakfast inn.~~

(h) *Bed and breakfast inn.*—A *bed and breakfast inn* is a family home structure, with no more than 15 sleeping rooms, which has been modified to serve as a transient public lodging establishment, which provides the accommodation and meal services generally offered by a *bed and breakfast inn*, and which is recognized as a *bed and breakfast inn* in the community in which it is situated or by the hospitality industry.

(Renumber subsequent sections.)

And the title is amended to read:

On page 3, line 3, after the semicolon (;) insert: amending s. 509.215, F.S.; providing fire safety standards for certain public lodging structures; amending s. 509.252, F.S.; including certain structures in public lodging establishment classifications;

On motion by Senator Latvala, by two-thirds vote **CS for HB's 2159 and 2233** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33      Nays—None

**SB 2494**—A bill to be entitled An act relating to dissolution of marriage, support, and custody; amending s. 61.075, F.S.; revising provisions relating to the equitable distribution of marital assets and liabilities; amending s. 61.13, F.S.; providing that either the circuit court in the county in which a parent and the child reside or the circuit court in which the original award of custody was entered has jurisdiction to modify an award of child custody; amending s. 61.30, F.S.; providing, with respect to gross income for child support purposes, that gross income includes court-ordered spousal support in the marriage before the court; providing that an allowable deduction from gross income shall be spousal support paid pursuant to a court order from a previous marriage or the marriage before the court; revising language with respect to minimum child support awards; providing an effective date.

—was read the second time by title.

Amendments were considered to conform **SB 2494** to **CS for HB 1087**.

Pending further consideration of **SB 2494** as amended, on motions by Senator Weinstein, by two-thirds vote—

**CS for HB 1087**—A bill to be entitled An act relating to child custody and support; amending s. 61.075, F.S.; revising language with respect to the equitable distribution of marital assets and liabilities; amending s. 61.13, F.S.; providing that the circuit court in the county in which either parent and the child reside or the circuit court in which the original award of custody was entered have jurisdiction to modify an award of child custody; providing that the court may not deny the non-custodial parent overnight contact and access or visitation solely because of the age or sex of the child; amending s. 61.30, F.S.; providing,

authorize the addition of land to a permitted mitigation bank under certain conditions; requiring the Department of Environmental Protection or the water management districts to award mitigation credits to a proposed mitigation bank or a phase of such mitigation bank; providing criteria for the award of such credits; requiring the Department of Environmental Protection or the water management districts to establish a schedule for the release of mitigation credits in the mitigation bank permit; providing factors the department and the districts shall consider in establishing the schedule; providing that the withdrawal of mitigation credits does not require a processing fee; requiring the Department of Environmental Protection or the water management districts to establish a mitigation service area for each mitigation bank permit; providing criteria for the establishment of mitigation service areas; providing that established mitigation bank service areas shall be accepted by all water management districts, local governments, and the department; specifying the projects eligible to use a mitigation bank; providing that mitigation bank permits pending or approved prior to the effective date of this act are subject to rules and provisions in effect on the effective date of this act unless the applicant elects to be subject to the provisions of this act; authorizing the Department of Environmental Protection and the water management districts to adopt rules;

On motion by Senator Burt, by two-thirds vote **CS for HB 2241** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34      Nays—None

Consideration of **CS for SB 176** was deferred.

**CS for SB 46**—A bill to be entitled An act relating to state parks; amending s. 258.015, F.S.; providing a reserve appropriation from the Land Acquisition Trust Fund to be used as a state match for private funding to enhance the use and potential of state parks; authorizing the Department of Environmental Protection to honor a private donor with a plaque; amending s. 370.0205, F.S.; exempting citizen support organizations with annual expenditures of less than a certain amount from certain auditing requirements; providing an effective date.

—was read the second time by title.

Senator Williams moved the following amendments which were adopted:

**Amendment 1**—On page 1, line 23, after “system” insert: *and State Greenways and Trails systems*

**Amendment 2**—On page 2, line 2, after “system” insert: *, and State Greenways and Trails systems*

**Amendment 3**—On page 2, line 10, delete the period (.) and insert: *, and State Greenways and Trails systems.*

**Amendment 4**—On page 2, line 22, after “Park” insert: *, state greenways or trails*

On motion by Senator Dantzler, by two-thirds vote **CS for SB 46** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33      Nays—None

## RECONSIDERATION OF BILL

On motion by Senator McKay, the Senate reconsidered the vote by which—

**SB 1860**—A bill to be entitled An act relating to post-delivery health care for mothers and their newborn infants; amending ss. 627.6406, 627.6574, 641.31, F.S.; requiring certain health insurance policies and health maintenance contracts to provide coverage for post-delivery care for a mother and her newborn infant if they qualify for early discharge from a health care facility; specifying services that must be included; defining the term “early discharge”; requiring the Agency for Health Care Administration to conduct a study to evaluate the clinical effects

of shorter stays in the hospital for maternity care; specifying the subject matter of the study; requiring a report; providing applicability; providing an effective date.

—as amended passed this day.

On motion by Senator McKay, by two-thirds vote the Senate reconsidered the vote by which **SB 1860** was read the third time.

On motion by Senator McKay, the Senate reconsidered the vote by which **Amendment 1** as amended and **Amendment 1A** were adopted. **Amendment 1A** was withdrawn.

Senator McKay moved the following amendment to **Amendment 1** which was adopted:

**Amendment 1B**—On page 1, line 31 through page 2, line 2; on page 3, lines 10-12; and on page 4, lines 23-25, delete “consistent with 1992 Guidelines for Perinatal Care of the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists” and insert: *in accordance with prevailing medical standards and consistent with proposed guidelines for perinatal care of the American Academy of Pediatrics or the American College of Obstetricians and Gynecologists as proposed on May 1, 1996*

On motion by Senator McKay, further consideration of **SB 1860** with pending **Amendment 1** as amended was deferred.

On motion by Senator Horne, by two-thirds vote **CS for HB 251** was withdrawn from the Committees on Commerce and Economic Opportunities; and Ways and Means.

On motion by Senator Horne—

**CS for HB 251**—A bill to be entitled An act relating to the Unemployment Compensation Law; amending s. 443.036, F.S.; redefining the term “employment” to include language with respect to employees who are shared by two or more employers; providing an effective date.

—a companion measure, was substituted for **CS for SB 106** and read the second time by title. On motion by Senator Horne, by two-thirds vote **CS for HB 251** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35      Nays—None

**CS for SB 176**—A bill to be entitled An act relating to the Hospitality Education Program; amending s. 509.072, F.S.; limiting uses of moneys deposited into the Hotel and Restaurant Trust Fund from the assessment against public lodging and public food service establishments; amending s. 509.291, F.S.; adding a member to the advisory council; amending s. 509.302, F.S.; prescribing additional duties of the Director of the Division of Hotels and Restaurants and the director of education of the program; authorizing the program to affiliate with certain institutions; providing budgetary requirements for the program; authorizing the development and validation of food safety programs; providing an effective date.

—was read the second time by title.

An amendment was considered to conform **CS for SB 176** to **CS for HB's 2159 and 2233**.

Pending further consideration of **CS for SB 176** as amended, on motion by Senator Latvala, by two-thirds vote **CS for HB's 2159 and 2233** was withdrawn from the Committees on Commerce and Economic Opportunities; and Ways and Means.

On motion by Senator Latvala, the rules were waived and—

**CS for HB's 2159 and 2233**—A bill to be entitled An act relating to the Division of Hotels and Restaurants of the Department of Business and Professional Regulation; repealing s. 399.035(1)(f), F.S., relating to accessibility requirements for elevators in buildings having fewer than three stories; amending s. 509.013, F.S.; revising exceptions to the definition of “public lodging establishment”; amending s. 509.032, F.S.; restricting the right of entry and access to public lodging establishments



1. Whether the mitigation consists solely of preservation or includes other types of mitigation.

2. The length of time anticipated to be required before a determination of success can be achieved.

3. The ecological value to be gained from each action required to implement the bank.

4. The financial expenditure required for each action to implement the bank.

(c) Notwithstanding the provisions of this subsection, no credit shall be released for freshwater wetland creation until the success criteria included in the mitigation bank permit are met.

(d) The withdrawal of mitigation credits from a mitigation bank shall be accomplished as a minor modification of the mitigation bank permit. A processing fee shall not be required by the department or water management district for this minor modification.

(6) **MITIGATION SERVICE AREA.**—The department or water management district shall establish a mitigation service area for each mitigation bank permit. The department or water management district shall notify and consider comments received on the proposed mitigation service area from each local government within the proposed mitigation service area that operates a wetlands regulatory program. Except as provided herein, mitigation credits may be withdrawn and used only to offset adverse impacts in the mitigation service area. The boundaries of the mitigation service area shall depend upon the geographic area where the mitigation bank could reasonably be expected to offset adverse impacts. A mitigation service area may be larger than the regional watershed if the mitigation bank provides exceptional ecological value such that adverse impacts outside the regional watershed could reasonably be expected to be adequately offset by the mitigation bank. A mitigation service area may be smaller than a regional watershed if adverse impacts throughout the regional watershed cannot reasonably be expected to be offset by the mitigation bank because of local ecological or hydrological conditions. Mitigation service areas may overlap, and mitigation service areas for two or more mitigation banks may be approved for a regional watershed.

(a) In determining the extent to which a mitigation bank provides exceptional ecological value such that adverse impacts outside the regional watershed could reasonably be expected to be adequately offset by the mitigation bank, the department or the water management district shall consider the characteristics, size, and location of the mitigation bank and, at a minimum, the extent to which the mitigation bank:

1. Will promote a regional integrated ecological network;
2. Will significantly enhance the water quality or restoration of an offsite receiving waterbody that is designated as an Outstanding Florida Water, a Wild and Scenic River, an aquatic preserve, a water body designated in a plan adopted pursuant to s. 373.456 of the Surface Water Improvement and Management Act, or a nationally designated estuarine preserve;
3. Will provide for the long-term viability of endangered or threatened species or species of special concern; and
4. Is consistent with the objectives of a regional management plan adopted or endorsed by the department or water management districts.

(b) Once a mitigation bank service area has been established by the department or a water management district for a mitigation bank, such service area shall be accepted by all water management districts, local governments, and the department.

(c) If the requirements in s. 373.4135(1)(b) are met, the following projects or activities regulated under this part shall be eligible to use a mitigation bank, notwithstanding the fact that they are not completely located within the mitigation service area:

1. Projects with adverse impacts partially located within the mitigation service area.
2. Linear projects, such as roadways, transmission lines, distribution lines, pipelines, or railways.

3. Projects with total adverse impacts of less than one acre in size.

(7) **ACCOUNTING.**—The department or the water management district shall provide for the accounting of the award, release, and use of mitigation credits from a mitigation bank.

(8) **AUTHORITY OF LOCAL GOVERNMENTS.**—Local governments may not require permits or otherwise impose regulations governing the operation of a mitigation bank. However, this section shall not be construed to limit the authority of a local government to require an applicant for a mitigation bank to obtain any authorization required by a local ordinance for the construction activities associated with a mitigation bank.

(9) **PRIOR APPLICATIONS.**—An application for a mitigation bank conceptual approval or mitigation bank permit which is pending with, and determined complete by, the department or a water management district on or before the effective date of this act, or a mitigation bank conceptual approval or mitigation bank permit issued on or before the effective date of this act, shall continue to be subject to the rules adopted pursuant to s. 373.4135 which were in effect on the effective date of this act, unless the applicant or permittee elects to be subject to the rules governing mitigation banks adopted after that date.

(10) **MODIFICATION WITH RESPECT TO PRIOR APPLICATIONS.**—Any application for a modification of a mitigation bank conceptual approval or mitigation bank permit which was pending with, and determined complete by, the department or water management district on or before the effective date of this act, shall continue to be subject to the rules adopted pursuant to s. 373.4135 in effect on the effective date of this act, unless the permittee elects to be subject to the rules governing mitigation banks adopted after that date. Any modification to a mitigation bank conceptual approval or mitigation bank permit issued on or before the effective date of this act, which is applied for within 20 years of the effective date of this act, and which does not involve the addition of new land that was not previously included in the mitigation bank conceptual approval or mitigation bank permit, shall be subject to the rules adopted pursuant to s. 373.4135 which were in effect before the effective date of this act, unless the permittee elects to be subject to the rules governing mitigation banks adopted after that date.

(11) **RULES.**—The department and water management district may adopt rules to implement the provisions of s. 373.4135 and s. 373.4136, which shall include, but not be limited to, provisions:

- (a) Requiring financial responsibility for the construction, operation, and long-term management of a mitigation bank;
- (b) For the perpetual protection and management of mitigation banks; and
- (c) Establishing a system and methodology for the valuation, assessment, and award of mitigation credits.

Section 7. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 2, line 11, after the semicolon (;) insert: amending s. 373.414, F.S.; providing that mitigation measures may include onsite mitigation, offsite mitigation, offsite regional mitigation, and the purchase of mitigation credits from mitigation banks; providing instances when the Department of Environmental Protection and the water management districts may accept donation of money as mitigation; amending s. 373.4135, F.S.; providing legislative intent with regard to the use of mitigation banks and offsite regional mitigation; providing that the provisions for establishing mitigation banks apply equally to both public and private entities establishing mitigation banks; providing that offsite regional mitigation may be located outside of the regional watershed of the permitted activity; allowing the use of a combination of the use of mitigation banks, offsite regional mitigation, and other forms of mitigation; prohibiting local governments from denying the use of a mitigation bank or offsite regional mitigation under certain circumstances; creating s. 373.4136, F.S.; providing for mitigation bank permits; authorizing the Department of Environmental Protection or the water management districts to require permits for the establishment and use of mitigation banks; providing that a mitigation bank may be established and operated in phases under certain conditions; providing that the Department of Environmental Protection or the water management districts may

~~(6) Requirements to ensure the financial responsibility of nongovernmental entities proposing to develop mitigation banks;~~

~~(7) Measures required to ensure the long term management and protection of mitigation banks;~~

~~(8) Criteria for the withdrawal of mitigation credits by projects within or outside the regional watershed where the bank is located;~~

~~(9) Criteria governing the contribution of funds or land to an approved mitigation bank;~~

~~(10) Criteria allowing the withdrawal of credits by parties other than the party creating the bank; and~~

~~(11) Provisions for the consideration of creation, restoration, enhancement, and preservation of wetlands and uplands as part of a mitigation bank.~~

Section 6. Section 373.4136, Florida Statutes, is created to read:

373.4136 Establishment and operation of mitigation banks.—

(1) MITIGATION BANK PERMITS.—The department and the water management districts may require permits to authorize the establishment and use of mitigation banks. A mitigation bank permit shall also constitute authorization to construct, alter, operate, maintain, abandon, or remove any surface water management system necessary to establish and operate the mitigation bank. To obtain a mitigation bank permit, the applicant must provide reasonable assurance that:

(a) The proposed mitigation bank will improve ecological conditions of the regional watershed;

(b) The proposed mitigation bank will provide viable and sustainable ecological and hydrological functions for the proposed mitigation service area;

(c) The proposed mitigation bank will be effectively managed in perpetuity;

(d) The proposed mitigation bank will not destroy areas with high ecological value;

(e) The proposed mitigation bank will achieve mitigation success;

(f) The proposed mitigation bank will be adjacent to lands that will not adversely affect the perpetual viability of the mitigation bank due to unsuitable land uses or conditions;

(g) Any surface water management system to be constructed, altered, operated, maintained, abandoned, or removed within the mitigation bank will meet the requirements of this part and the rules adopted thereunder;

(h) It has sufficient legal or equitable interest in the property to ensure perpetual protection and management of the land within a mitigation bank; and

(i) It can meet the financial responsibility requirements prescribed for mitigation banks.

(2) MITIGATION BANK PHASES.—A mitigation bank may be established and operated in phases if each phase independently meets the requirements for the establishment and operation of a mitigation bank. The number of mitigation credits assigned to a phase of a mitigation bank may be less than would be assigned to that phase upon completion of all phases of the mitigation bank. In such case, the department or water management districts shall increase the number of mitigation credits awarded to subsequent phases of the mitigation bank.

(3) ADDITION OF LANDS.—The department or water management district shall authorize the addition of land to a permitted mitigation bank when it is appropriate to do so and the addition of the land results in an increase in the ecological value of the existing mitigation bank. Any such addition shall be accomplished through a modification to the permit which reflects the corresponding increase in the total number of mitigation credits assigned to the bank.

(4) MITIGATION CREDITS.—After evaluating the information submitted by the applicant for a mitigation bank permit and assessing the proposed mitigation bank pursuant to the criteria in this section, the department or water management district shall award a number of mitigation credits to a proposed mitigation bank or phase of such mitigation bank. An entity establishing and operating a mitigation bank may apply to modify the mitigation bank permit to seek the award of additional mitigation credits if the mitigation bank results in an additional increase in ecological value over the value contemplated at the time of the original permit issuance, or the most recent modification thereto involving the number of credits awarded. The number of credits awarded shall be based on the degree of improvement in ecological value expected to result from the establishment and operation of the mitigation bank as determined using a functional assessment methodology. In determining the degree of improvement in ecological value, each of the following factors, at a minimum, shall be evaluated:

(a) The extent to which target hydrologic regimes can be achieved and maintained.

(b) The extent to which management activities promote natural ecological conditions, such as natural fire patterns.

(c) The proximity of the mitigation bank to areas with regionally significant ecological resources or habitats, such as national or state parks, Outstanding National Resource Waters and associated watersheds, Outstanding Florida Waters and associated watersheds, and lands acquired through governmental or nonprofit land acquisition programs for environmental conservation; and the extent to which the mitigation bank establishes corridors for fish, wildlife or listed species to those resources or habitats.

(d) The quality and quantity of wetland or upland restoration, enhancement, preservation, or creation.

(e) The ecological and hydrological relationship between wetlands and uplands in the mitigation bank.

(f) The extent to which the mitigation bank provides habitat for fish and wildlife, especially habitat for species listed as threatened, endangered, or of special concern, or provides habitats that are unique for that mitigation service area.

(g) The extent to which the lands that are to be preserved are already protected by existing state, local, or federal regulations or land use restrictions.

(h) The extent to which lands to be preserved would be adversely affected if they were not preserved.

(i) Any special designation or classification of the affected waters and lands.

(5) SCHEDULE FOR CREDIT RELEASE.—After awarding mitigation credits to a mitigation bank, the department or the water management district shall set forth a schedule for the release of those credits in the mitigation bank permit. A mitigation credit that has been released may be sold or used to offset adverse impacts from an activity regulated under this part.

(a) The department or the water management district shall allow a portion of the mitigation credits awarded to a mitigation bank to be released for sale or use prior to meeting all of the performance criteria specified in the mitigation bank permit. The department or the water management district shall allow release of all of a mitigation bank's awarded mitigation credits only after the bank meets the mitigation success criteria specified in the permit.

(b) The number of credits and schedule for release shall be determined by the department or water management district based upon the performance criteria for the mitigation bank and the success criteria for each mitigation activity. The release schedule for a specific mitigation bank or phase thereof shall be related to the actions required to implement the bank, such as site protection, site preparation, earthwork, removal of wastes, planting, removal or control of nuisance and exotic species, installation of structures, and annual monitoring and management requirements for success. In determining the specific release schedule for a bank, the department or water management district shall consider, at a minimum, the following factors:

(1) As part of an applicant's demonstration that an activity regulated under this part will not be harmful to the water resources or will not be inconsistent with the overall objectives of the district, the governing board or the department shall require the applicant to provide reasonable assurance that state water quality standards applicable to waters as defined in s. 403.031(13) will not be violated and reasonable assurance that such activity in, on, or over surface waters or wetlands, as delineated in s. 373.421(1), is not contrary to the public interest. However, if such an activity significantly degrades or is within an Outstanding Florida Water, as provided by department rule, the applicant must provide reasonable assurance that the proposed activity will be clearly in the public interest.

(b) If the applicant is unable to otherwise meet the criteria set forth in this subsection, the governing board or the department, in deciding to grant or deny a permit, shall consider measures proposed by or acceptable to the applicant to mitigate adverse effects that ~~which~~ may be caused by the regulated activity. ~~Such measures may include, but are not limited to, onsite mitigation, offsite mitigation, offsite regional mitigation, and the purchase of mitigation credits from mitigation banks permitted under s. 373.4136. It shall be the responsibility of the applicant to choose the form of mitigation. The mitigation must offset the adverse effects caused by the regulated activity.~~

1. The department or water management districts may accept the donation of money as mitigation only where the donation is specified for use in a department-or-water-management-district-endorsed environmental creation, preservation, enhancement, or restoration project that offsets the impacts of the activity permitted under this part. However, this subsection does not apply to projects undertaken under s. 343.4137, when a permit is required under this part to implement the department or water management district endorsed project. All necessary permits must have been issued before the acceptance of any cash donation. After the effective date of this act, when money is donated to either the department or a water management district to offset impacts authorized by a permit under this part, the department or the water management district shall accept only a donation that represents the full cost to the department or water management district of undertaking the project that is intended to mitigate the adverse impacts. The full cost shall include all direct and indirect costs, as applicable, such as those for land acquisition, land restoration or enhancement, perpetual land management, and general overhead consisting of costs such as staff time, building, and vehicles. The department or the water management district may use a multiplier or percentage to add to other direct or indirect costs to estimate general overhead. Mitigation credit for such a donation shall be given only to the extent that the donation covers the full cost to the agency of undertaking the project that is intended to mitigate the adverse impacts. However, nothing herein shall be construed to prevent the department or a water management district from accepting a donation representing a portion of a larger project, provided that the donation covers the full cost of that portion and mitigation credit is given only for that portion. The department or water management district may deviate from the full cost requirements of this subparagraph to resolve a proceeding brought pursuant to chapter 70 or a claim for inverse condemnation. Nothing in this section shall be construed to require the owner of a private mitigation bank, permitted under s. 373.4136, to include the full cost of a mitigation credit in the price of the credit to a purchaser of said credit.

2. If the applicant is unable to meet water quality standards because existing ambient water quality does not meet standards, the governing board or the department shall consider mitigation measures proposed by or acceptable to the applicant that cause net improvement of the water quality in the receiving body of water for those parameters which do not meet standards.

3. If mitigation requirements imposed by a local government for surface water and wetland impacts of an activity regulated under this part cannot be reconciled with mitigation requirements approved under a permit for the same activity issued under this part, the mitigation requirements for surface water and wetland impacts shall be controlled by the permit issued under this part.

Section 5. Section 373.4135, Florida Statutes, is amended to read:

373.4135 Mitigation banks and offsite regional mitigation banking.—

(1) The Legislature finds that the adverse impacts of activities regulated under this part may be offset by the creation, and maintenance,

and use of ~~regional mitigation areas or~~ mitigation banks and offsite regional mitigation. Mitigation banks and offsite regional mitigation can enhance the certainty of ~~minimize~~ mitigation ~~uncertainty~~ and provide ecological value due to the improved likelihood of environmental success associated with their proper construction, maintenance, and management benefits. Therefore, the department and the water management districts are directed to participate in and encourage the establishment of private and public ~~regional mitigation areas and~~ mitigation banks and offsite regional mitigation. Mitigation banks and offsite regional mitigation should emphasize the restoration and enhancement of degraded ecosystems and the preservation of uplands and wetlands as intact ecosystems rather than alteration of landscapes to create wetlands. This is best accomplished through restoration of ecological communities that were historically present.

(a) The Legislature intends that the provisions for establishing mitigation banks apply equally to both public and private entities, except that the rules of the department and water management districts may set forth different measures governing financial responsibility, and different measures governing legal interest, needed to ensure the construction and perpetual protection of a mitigation bank.

(b) It is the further intent of the Legislature that mitigation banks and offsite regional mitigation be considered appropriate and a permissible mitigation option under the conditions specified by the rules of the department and water management districts.

(c) Offsite mitigation, including offsite regional mitigation, may be located outside the regional watershed in which the adverse impacts of an activity regulated under this part are located, if such adverse impacts are offset by the offsite mitigation.

(d) The department or water management district may allow the use of a mitigation bank or offsite regional mitigation alone or in combination with other forms of mitigation to offset adverse impacts of activities regulated under this part.

(e) When an applicant for a permit under the provisions of this part other than s. 373.4135 and 373.4136 submits more than one mitigation proposal to the department or a water management district, the department or water management district shall, in evaluating each proposal, ensure that such proposal adequately offsets the adverse impacts.

(2) Local governments shall not deny the use of a mitigation bank or offsite regional mitigation due to its location outside of the jurisdiction of the local government.

(3) Nothing in s. 373.4135 or s. 373.4136 shall be construed to eliminate or diminish any of the regulatory requirements applicable to applicants seeking permits pursuant to other provisions of this part.

(4) Except as otherwise provided herein, nothing in s. 373.4135 or s. 373.4136 shall be construed to diminish or limit the existing authority of the department, water management districts, or local governments.

(5) Nothing in s. 373.4135 or s. 373.4136 shall be construed to limit the consideration of forms of mitigation other than mitigation banks and offsite regional mitigation. ~~The department and the districts are directed to adopt rules by January 1, 1994, governing the use of mitigation banks. Such rules shall include:~~

(1) ~~Circumstances in which mitigation banking is appropriate or desirable;~~

(2) ~~Provisions for the establishment of mitigation banks by governmental, nonprofit, or for-profit private entities with sufficient legal or equitable interest in the property proposed for mitigation banking;~~

(3) ~~Procedures for the review of mitigation banking proposals in a timely manner pursuant to chapter 120;~~

(4) ~~A framework for determining the value of a mitigation bank, considering the ecological value of the mitigation bank compared to the area where adverse impacts to wetlands or surface waters are proposed. Mitigation banks found to be successful prior to withdrawal of credit shall receive greater credit than mitigation which has not yet achieved success;~~

(5) ~~Procedures for the administration of bank credits so that accounting responsibilities are not unnecessarily duplicated between a water management district and the department;~~

adding emergency medical care providers and community college security officers for purposes of the reclassified offenses; defining the term "emergency medical care provider" for the purposes of this section; authorizing enhanced penalties; and minimum terms of imprisonment for certain offenses; reenacting s. 39.039(1)(b), F.S., relating to fingerprinting and photographing, s. 775.0877(1)(d)-(g), F.S., relating to criminal transmission of HIV, and s. 943.051(3)(b), F.S., relating to criminal justice information and fingerprinting, to incorporate said amendment in references; creating s. 784.081, F.S.; providing enhanced penalties for assault or aggravated assault or battery or aggravated battery upon specified officials or employees; creating s. 784.082, F.S.; providing enhanced penalties for assault or aggravated assault or battery or aggravated battery by persons being detained in prison, jail, or other detention facilities against visitors or other detainees; amending s. 921.0012, F.S., relating to the offense severity ranking chart; ranking the new offenses and deleting references to repealed offenses; moving the offense of false report of deadly explosive or act of arson or violence to state property from level 5 to level 6; repealing ss. 231.06, 240.381, 381.0025(4), 401.41(2), 415.111(5), 944.42, and 951.075, F.S., relating to assault or battery upon school board employees, community college security officers, employees of the Department of Health and Rehabilitative Services, emergency medical technicians, or protective investigators, or committed by prisoners or detainees in jails or detention facilities, to conform to the act; providing an effective date.

—a companion measure, was substituted for **CS for SB 536** and read the second time by title.

Senator Johnson moved the following amendments which were adopted:

**Amendment 1 (with title amendment)**—On page 3, lines 22-31, and on page 4, lines 1-3, delete those lines and renumber subsequent sections.

And the title is amended as follows:

On page 1, lines 3-5, delete those lines and insert: amending s. 784.07, F.S., relating to

**Amendment 2**—On page 17, line 12, delete that line

On motion by Senator Johnson, by two-thirds vote **CS for HB's 459, 931, 1407 and CS for HB 301** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34      Nays—None

**CS for SB 2000**—A bill to be entitled An act relating to coastal construction; amending s. 161.053, F.S.; authorizing the Department of Environmental Protection to exempt construction proposed for location seaward of a coastal construction control line and landward of existing armoring from certain siting and design criteria under limited conditions; delaying the date for establishing interim lines of jurisdiction for coastal construction control lines; authorizing the department to grant areawide permits under certain circumstances; authorizing the department to grant general permits for specified projects; prohibiting use of general permits for multi-family habitable structures; authorizing use of general permits for single-family habitable structures under certain conditions; providing procedures to be followed in obtaining general permits; providing a penalty; requiring applicants for general permits to provide certain notice of projects; authorizing the department to revoke or suspend the use of general or areawide permits in certain situations; granting access to the permitted project or activity; creating s. 161.0531, F.S.; authorizing the department to enter into development agreements under certain circumstances; defining "development agreement" for purposes of this section; specifying items to be included in each development agreement; requiring periodic inspections of land subject to a development agreement; requiring recording of development agreements; specifying that development agreements constitute final agency action; prohibiting property owners who have been refused a development agreement from challenging such refusal; providing an effective date.

—was read the second time by title.

An amendment was considered to conform **CS for SB 2000** to **CS for HB 2241**.

Pending further consideration of **CS for SB 2000** as amended, on motions by Senator Burt, by two-thirds vote—

**CS for HB 2241**—A bill to be entitled An act relating to coastal construction; amending s. 161.053, F.S.; authorizing the Department of Environmental Protection to exempt construction proposed for location seaward of a coastal construction control line and landward of existing armoring from certain siting and design criteria under limited conditions; delaying the date for establishing interim lines of jurisdiction for coastal construction control lines; authorizing the department to grant areawide permits under certain circumstances; authorizing the department to grant general permits for specified projects; prohibiting use of general permits for multi-family habitable structures; authorizing use of general permits for single-family habitable structures under certain conditions; providing procedures to be followed in obtaining general permits; providing a penalty; requiring applicants for general permits to provide certain notice of projects; authorizing the department to revoke or suspend the use of general or areawide permits in certain situations; granting access to the permitted project or activity; creating s. 161.0531, F.S.; authorizing the department to enter into development agreements under certain circumstances; defining "development agreement" for purposes of this section; specifying items to be included in each development agreement; requiring periodic inspections of land subject to a development agreement; requiring recording of development agreements; specifying that development agreements constitute final agency action; prohibiting property owners who have been refused a development agreement from challenging such refusal; amending s. 161.161, F.S.; providing legislative intent with respect to procedure for approval of beach management plan projects; providing an effective date.

—a companion measure, was substituted for **CS for SB 2000** and by two-thirds vote read the second time by title.

Senator Williams moved the following amendment which was adopted:

**Amendment 1 (with title amendment)**—On page 11, between lines 8 and 9, insert:

Section 3. Subsections (18), (19), (20), (21), and (22) are added to section 373.403, Florida Statutes, to read:

373.403 Definitions.—When appearing in this part or in any rule, regulation, or order adopted pursuant thereto, the following terms mean:

(18) "Ecological value" means the value of functions performed by uplands, wetlands, and other surface waters to the abundance, diversity, and habitats of fish, wildlife, and listed species. These functions include, but are not limited to, providing cover and refuge; breeding, nesting, denning, and nursery areas; corridors for wildlife movement; food chain support; and natural water storage, natural flow attenuation, and water quality improvement, which enhances fish, wildlife and listed species utilization.

(19) "Mitigation bank" means a project permitted under s. 373.4136 undertaken to provide for the withdrawal of mitigation credits to offset adverse impacts authorized by a permit under this part.

(20) "Mitigation credit" means a standard unit of measure which represents the increase in ecological value resulting from restoration, enhancement, preservation, or creation activities.

(21) "Mitigation service area" means the geographic area within which mitigation credits from a mitigation bank may be used to offset adverse impacts of activities regulated under this part.

(22) "Offsite regional mitigation" means mitigation on an area of land off the site of an activity permitted under this part, where an applicant proposes to mitigate the adverse impacts of only the applicant's specific activity as a requirement of the permit, which provides regional ecological value, and which is not a mitigation bank permitted under s. 373.4136.

Section 4. Paragraph (b) of subsection (1) of section 373.414, Florida Statutes, is amended to read:

373.414 Additional criteria for activities in surface waters and wetlands.—

## AFTERNOON SESSION

The Senate was called to order by Senator Silver at 1:52 p.m. A quorum present—31:

Bankhead	Dantzer	Johnson	Rossin
Beard	Dudley	Jones	Silver
Bronson	Forman	Kirkpatrick	Sullivan
Brown-Waite	Gutman	Kurth	Thomas
Burt	Harden	Latvala	Turner
Casas	Hargrett	McKay	Wexler
Childers	Horne	Meadows	Williams
Crist	Jennings	Ostalkiewicz	

### NON-CONTROVERSIAL SPECIAL ORDER CALENDAR, continued

Consideration of **SB 2354** and **SB 1118** was deferred.

On motion by Senator Williams, by two-thirds vote **HB 1833** was withdrawn from the Committees on Natural Resources and Agriculture.

On motion by Senator Williams—

**HB 1833**—A bill to be entitled An act relating to commercial production of sturgeon; creating s. 370.31, F.S.; creating the Sturgeon Production Working Group; providing membership, procedures, and responsibilities; requiring a state sturgeon aquaculture program and plan; providing an effective date.

—a companion measure, was substituted for **SB 1296** and read the second time by title. On motion by Senator Williams, by two-thirds vote **HB 1833** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29      Nays—None

**SB 1118**—A bill to be entitled An act relating to motor vehicles; amending s. 319.14, F.S.; including nonconforming vehicles within a group of vehicles which must have certain information included on the certificate of title; providing a definition; providing a penalty; providing an effective date.

—was read the second time by title.

The Committee on Transportation recommended the following amendment which was moved by Senator Brown-Waite and failed:

**Amendment 1**—On page 1, line 21, and on page 2, lines 3 and 26, delete “681.114” and insert: 681.104

Senator Brown-Waite moved the following amendment:

**Amendment 2**—On page 1, line 21, and on page 2, lines 3 and 26, delete “s. 681.114” and insert: *a settlement, determination, or decision under chapter 681*

On motion by Senator Brown-Waite, further consideration of **SB 1118** with pending **Amendment 2** was deferred.

**CS for SB 2784**—A bill to be entitled An act relating to Cuban freedom; creating the “Cuban Freedom Act”; providing for sanctions against the Castro government in Cuba; providing for legislative findings; providing penalties for violating certain federal travel restrictions; prohibiting certain persons or financial institutions to provide loans, credit, or other financing to certain persons; providing penalties; directing the Governor to file an annual report to the Legislature on assistance to and commerce with Cuba by citizens and legal residents of Florida; providing that it is illegal to import certain items into Florida; providing exceptions; providing penalties; providing for support for a free and independent Cuba; providing for legislative policy; providing for the termination of Florida’s participation in the economic embargo on Cuba; providing definitions; providing an effective date.

—was read the second time by title.

Senator Gutman moved the following amendments which were adopted:

**Amendment 1**—On page 2, line 27, delete that line and insert:

(3) *To the extent allowed by federal law, no*

**Amendment 2**—On page 3, lines 8 and 9, delete those lines and insert: punishable as provided in s. 775.082, s. 775.083, or s. 775.084 so long as the imposition of the state penalty does not in any way interfere with full federal prosecution and penalties.

**Amendment 3**—On page 3, line 26, delete that line and insert:

(5) Furthermore, contingent upon annual appropriation, to the extent covered by the report submitted by the President according to section 108 of the Cuban Liberty and Democratic Solidarity Act of 1966, and until such time as the President submits a determination under section 203(c)(1) of the Cuban Liberty and Democratic Solidarity Act of 1996, the Governor shall submit an annual

**Amendment 4**—On page 4, line 22, delete that line and insert: provided in s. 775.082, s. 775.083, or s. 775.084 so long as the imposition of the state penalty does not in any way interfere with full federal prosecution and penalties.

**Amendment 5 (with title amendment)**—On page 7, between lines 8 and 9, insert:

Section 5. No person, corporation, company, or other entity shall export or make a sale intended for export to a foreign country of any goods, products, or services in violation of any federal law. Except as prohibited by the preceding sentence, no person, corporation, company, or other entity, by contract or otherwise, shall prohibit, restrict or restrain the exportation or a sale intended for exportation from the state to a foreign country of any goods, products, or services.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 21, after the semicolon (;) insert: providing for restrictions on exports;

On motion by Senator Gutman, by two-thirds vote **CS for SB 2784** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29      Nays—None

**CS for SB 536**—A bill to be entitled An act relating to assault and battery; creating s. 784.081, F.S.; providing enhanced penalties for assault or aggravated assault or battery or aggravated battery upon employees of nonpublic schools, elected and appointed officials and employees of district school boards, state universities, and other entities in the state system of public education; amending s. 921.0012, F.S., relating to the offense severity ranking chart; providing conforming provisions; repealing s. 231.06, F.S., relating to assault or battery upon school employees; providing an effective date.

—was read the second time by title.

An amendment was considered to conform **CS for SB 536** to **CS for HB’s 459, 931, 1407** and **CS for HB 301**.

Pending further consideration of **CS for SB 536** as amended, on motion by Senator Johnson, by two-thirds vote **CS for HB’s 459, 931, 1407** and **CS for HB 301** was withdrawn from the Committees on Criminal Justice; and Ways and Means.

On motion by Senator Johnson, the rules were waived and—

**CS for HB’s 459, 931, 1407** and **CS for HB 301**—A bill to be entitled An act relating to assault and battery; creating s. 784.041, F.S.; defining the offense of felony battery, and providing penalties therefor; amending s. 784.07, F.S., relating to reclassification of offenses of assault or battery upon law enforcement officers, firefighters, or other specified officers;

—a companion measure, was substituted for **CS for SB 1028** and by two-thirds vote read the second time by title.

Senators Hargrett and McKay offered the following amendment which was moved by Senator Hargrett and adopted:

**Amendment 1 (with title amendment)**—On page 4, line 25 through page 6, line 2, delete all those lines and renumber subsequent sections.

And the title is amended as follows:

On page 1, lines 19 and 20, delete those lines and insert: traffic offense in the county; providing

On motion by Senator Hargrett, by two-thirds vote **CS for HB 1957** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36      Nays—None

The Senate resumed consideration of—

**CS for SB 2414**—A bill to be entitled An act relating to wireless communications; amending ss. 282.102, 321.02, and 338.235, F.S.; authorizing certain agencies of the state to enter into contracts or agreements to make available certain property or structures for wireless providers and telecommunications companies under certain circumstances; authorizing the charging of fees for the use of such property; providing an effective date.

—which was previously considered and amended this day.

On motion by Senator Dyer, by two-thirds vote the Senate reconsidered the vote by which **CS for SB 2414** was read the third time.

#### RECONSIDERATION OF AMENDMENT

On motion by Senator Dyer, the Senate reconsidered the vote by which **Amendment 2** was adopted.

Senator Dyer moved the following amendment to **Amendment 2** which was adopted:

**Amendment 2A**—On page 1, lines 21 and 22, delete “, but not necessarily limited to,”

**Amendment 2** as amended was adopted.

On motion by Senator Dyer, by two-thirds vote **CS for SB 2414** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37      Nays—None

**SB 1094**—A bill to be entitled An act relating to discretionary sales surtaxes; amending s. 212.054, F.S.; revising provisions that specify when a transaction is deemed to occur in a county imposing a surtax, to provide for application to sales of tangible personal property by florists; providing an effective date.

—was read the second time by title. On motion by Senator Childers, by two-thirds vote **SB 1094** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37      Nays—None

**CS for SB's 282 and 1224**—A bill to be entitled An act relating to contracts in restraint of trade or commerce; creating s. 542.335, F.S.; authorizing enforcement of reasonable restrictions; providing criteria; providing time limitations on certain restrictions; providing for enforcement against third-party beneficiaries; providing criteria for enforcement; providing presumptions; requiring bond for temporary injunctions; providing for attorney's fees; repealing s. 542.33, F.S., relating to validity of certain contracts in restraint of trade; providing application; providing an effective date.

—was read the second time by title.

An amendment was considered to conform **CS for SB's 282 and 1224** to **CS for HB's 611 and 375**.

Pending further consideration of **CS for SB's 282 and 1224** as amended, on motions by Senator Grant, by two-thirds vote—

**CS for HB's 611 and 375**—A bill to be entitled An act relating to contracts in restraint of trade or commerce; creating s. 542.335, F.S.; authorizing enforcement of reasonable restrictions; providing criteria; providing time limitations on certain restrictions; providing for enforcement against third-party beneficiaries; providing criteria for enforcement; providing presumptions; requiring bond for temporary injunctions; providing for attorney's fees; repealing s. 542.33, F.S., relating to validity of certain contracts in restraint of trade; providing application; providing an effective date.

—a companion measure, was substituted for **CS for SB's 282 and 1224** and by two-thirds vote read the second time by title. On motion by Senator Grant, by two-thirds vote **CS for HB's 611 and 375** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37      Nays—None

**SB 2186**—A bill to be entitled An act relating to the Postsecondary Education Planning Commission; amending s. 240.145, F.S.; authorizing the commission to suspend or dismiss its executive director and to fix compensation and job classifications for commission personnel; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote **SB 2186** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37      Nays—None

Consideration of **CS for SB 2784** was deferred.

On motions by Senator Meadows, by two-thirds vote—

**CS for HB 1921**—A bill to be entitled An act relating to local government; creating the Commission on Local Government II; providing for membership; providing powers and duties of the commission; requiring reports; providing for staffing of the commission; providing for funding of the act; providing an effective date.

—a companion measure, was substituted for **CS for SB 1816** and by two-thirds vote read the second time by title. On motion by Senator Meadows, by two-thirds vote **CS for HB 1921** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37      Nays—None

**CS for SB 2002**—A bill to be entitled An act relating to local government comprehensive planning; amending s. 163.3187, F.S.; revising conditions under which a local government is authorized to adopt small scale development amendments to its comprehensive plan without regard to statutory limits on frequency of plan amendments; requiring certain information in the notice of such amendments; providing an effective date.

—was read the second time by title. On motion by Senator Kurth, by two-thirds vote **CS for SB 2002** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36      Nays—None

#### RECESS

The President declared the Senate in recess at 12:19 p.m. to reconvene at 1:30 p.m.



(c) The district shall be responsible for design of the facilities and for acquiring any necessary interest in land for the facilities. Zellwood will be responsible for construction of the facilities in accordance with the district's design. The district will administer the funds provided for under this section. No later than September 30, 1997, the district and Zellwood will develop an agreement regarding dispersal of funds for construction of the facilities which shall take into account the financing mechanisms available to the parties. Zellwood shall not be required to assess more than \$25 per acre per year in financing its share of the stormwater management facility. However, it must provide its one-third share of the funding within the timeframes outlined for construction of the stormwater construction facility outlined in this section.

(d) Construction of the stormwater retention and treatment facilities provided for in this section shall begin within 90 days after acquisition of interests in land necessary for the facilities and completed within 1 year thereafter. After completion of the facilities, Zellwood shall be responsible for operation and maintenance so long as the facilities are used by Zellwood.

(e) The district may, as appropriate, alter or modify the design of the facility to reduce the cost of the acquisition and construction of the facility if lands presently in production within Zellwood are acquired pursuant to subsection (5) before construction of the facility. The district shall have the flexibility to adjust these dates due to any unforeseen circumstances such as, and not limited to, acts of God, delays due to litigation by outside parties, or unnecessary or unforeseen permitting or construction delays.

(f) The district and Zellwood shall give preferential consideration to the hiring of agricultural workers displaced as a result of the Lake Apopka Restoration Act, consistent with their qualifications and abilities, for the construction and operation of the stormwater facility.

#### (5) PURCHASE OF AGRICULTURAL LANDS.—

(a) The Legislature finds that it is in the public interest of the state to acquire lands in agricultural production, along with their related facilities, which contribute, directly or indirectly, to phosphorus discharges to Lake Apopka, for the purpose of improving water quality in Lake Apopka. These lands consist of those farming entities on Lake Apopka having consent and settlement agreements with the district and those sand land farms discharging indirectly to Lake Apopka through Lake Level Canal, Apopka-Beauclair Canal, or McDonald Canal. The district is granted the power of eminent domain on those properties.

(b) In determining the fair market value of lands to be purchased from willing sellers, all appraisals of such lands may consider income from the use of the property for farming and, for this purpose, such income shall be deemed attributable to the real estate.

(c) The district shall explore the availability of funding from all sources, including any federal, state, regional, and local land acquisition funding programs, to purchase the agricultural lands described in paragraph (a). It is the Legislature's intent that, if such funding sources can be identified, acquisition of the lands described in paragraph (a) may be undertaken by the district to purchase these properties from willing sellers.

(d) In connection with successful acquisition of any of the lands described in this section which are not needed for stormwater-management facilities, the district shall give the seller the option to lease the land for a period not to exceed 5 years, at a fair market lease value for similar agricultural lands. Proceeds derived from such leases shall be used to offset the cost of acquiring the land.

(e) If the lands within Zellwood are purchased in accordance with this section prior to expiration of the consent agreement between Zellwood and the district, Zellwood shall be reimbursed for any costs described in subsection (4).

(6) EXISTING CONSENT OR SETTLEMENT AGREEMENTS PRESERVED.—Except to the extent specifically modified in this section, the district's existing consent or settlement agreements with A. Duda and Sons, Inc., and Zellwood, including requirements regarding compliance with any discharge limitations established for Lake Apopka, shall remain in effect.

#### (7) APPLICABILITY OF LAWS AND WATER-QUALITY STANDARDS; AUTHORITY OF DISTRICT AND DEPARTMENT.—

(a) Except as otherwise provided in this section, nothing in this section shall be construed:

1. As altering any applicable state water-quality standards, laws, or district or department rules; or

2. To restrict the authority otherwise granted the department and the district pursuant to this chapter or chapter 403. The provisions of this section shall be deemed supplemental to the authority granted pursuant to this chapter and chapter 403.

Section 2. As provided in the General Appropriations Act for fiscal year 1996-1997, only, there is appropriated from funds deposited in the Conservation and Recreation Lands Trust Fund the sum of \$12 million to the St. Johns River Water Management District, to be used for the purpose of purchasing lands described in section 373.461(5)(a), Florida Statutes. In addition, the St. Johns River Water Management District is directed to use \$8 million from its share of funds from the Water Management Lands Trust Fund or from funds derived from revenue bonds using Water Management Lands Trust Fund revenues as the revenue source for the purpose of purchasing lands described in section 373.461(5)(a), Florida Statutes.

Section 3. This act shall take effect July 1, 1996.

And the title is amended as follows:

On page 1, lines 3-31, delete those lines and insert: creating s. 373.461, F.S.; providing findings and legislative intent; providing that it is the intent of the Legislature to enhance and accelerate the restoration process begun by previous acts of the Legislature relating to the restoration of the Lake Apopka basin; providing that acquisition of agricultural lands impacting Lake Apopka would serve the public interest; providing intent regarding the development of a process to limit the discharge of phosphorus into the lake and the cost-sharing of such a process; providing definitions; providing for the construction of stormwater-management facilities; providing for cost-sharing by the state, the St. Johns River Water Management District, and the Zellwood Drainage and Water Control District; providing for the responsibilities of the St. Johns River Water Management District and the Zellwood Drainage and Water Control District; granting the St. Johns River Water Management District the power of eminent domain over certain specified lands; providing for the purchase of certain lands under certain conditions; providing that certain existing consent or settlement agreements are not affected and will remain in effect; providing that existing water-quality standards are not altered; providing an appropriation; providing an effective date.

On motion by Senator Dyer, by two-thirds vote **CS for SB 2954** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37      Nays—None

#### MOTION

On motion by Senator Jennings, the rules were waived and time of recess was extended until 12:30 p.m.

On motions by Senator Hargrett, by two-thirds vote—

**CS for HB 1957**—A bill to be entitled An act relating to juveniles; creating s. 775.0833, F.S., relating to county delinquency prevention fines; authorizing a county to adopt an ordinance that incorporates the provisions of said section; providing funding of a juvenile assessment center and suspension program in counties where the sheriff is a partner in such programs through the assessment of an additional court cost against every person convicted of a violation of a criminal statute, an ordinance, or a traffic offense in the county; providing for administration by the clerk of the circuit court; providing for funding teen court through the assessment by county ordinance of an additional court cost against every person convicted of a violation of a criminal statute, an ordinance, or a traffic offense in the county; providing for local option reset and deferral fees; providing an effective date.

—passed this day.

Senator Meadows moved the following amendment which was adopted by two-thirds vote:

**Amendment 1 (with title amendment)**—On page 2, line 31, insert:

(c) *Any college chartered in this state and accredited by the Commission on Colleges of the Southern Association of Colleges and Schools.*

And the title is amended as follows:

On page 1, line 9, after the second semicolon (;) insert: adding certain accredited colleges to the list of categories that are not under the jurisdiction of the board;

On motion by Senator Ostalkiewicz, **CS for SB 1692** as amended was read by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31      Nays—None

**CS for SB 2954**—A bill to be entitled An act relating to Lake Apopka restoration; creating s. 373.461, F.S.; providing findings and legislative intent; providing that it is the intent of the Legislature to enhance and accelerate the restoration process begun by previous acts of the Legislature relating to the restoration of Lake Apopka; providing that acquisition of agricultural lands impacting Lake Apopka would serve the public interest; providing intent regarding the development of a process to limit the discharge of phosphorus into the lake and the cost-sharing of such a process; providing definitions; providing for the construction of stormwater-management facilities; providing for cost-sharing by the state, the St. Johns River Water Management District, and the Zellwood Drainage and Water Control District; providing for the responsibilities of the St. Johns River Water Management District and the Zellwood Drainage and Water Control District; granting the St. Johns River Water Management District the power of eminent domain over certain specified lands; providing for the purchase of certain lands under certain conditions; providing that certain existing consent or settlement agreements are not affected and will remain in effect; providing that existing water-quality standards are not altered; providing an effective date.

—was read the second time by title.

The Committee on Agriculture recommended the following amendments which were moved by Senator Dyer and failed:

**Amendment 1**—On page 4, line 7, after “purchase” insert: all

**Amendment 2**—On page 4, line 21, delete that line and insert: with the same amount being committed by both Zellwood

**Amendment 3**—On page 5, line 10, delete that line and insert: financing its share of the stormwater management facility. However, it must

Senator Dyer moved the following amendment which was adopted:

**Amendment 4 (with title amendment)**—Delete everything after the enacting clause and insert:

Section 1. Section 373.461, Florida Statutes, is created to read:

373.461 Lake Apopka Improvement and Management.—

(1) FINDINGS AND INTENT.—

(a) The Legislature has expressed its intent that economically and technically feasible methods be developed to restore the Lake Apopka basin through the Lake Apopka Restoration Act and the Surface Water Improvement and Management Act. It is the Legislature's intent to enhance and accelerate the restoration process begun by those previous acts of the Legislature.

(b) Technical studies have determined that substantial reductions in or elimination of phosphorus in farm discharges to Lake Apopka will be necessary in order to improve water quality and restore the lake to Class III standards.

(c) Acquisition of the lands in agricultural production which discharge phosphorus to Lake Apopka, and their related facilities, would serve the public interest by eliminating the impacts of introduction of phosphorus from these sources into the lake. It is the Legislature's intent that a fair and equitable program of acquisition of the lands necessary to achieve the purposes of this section be implemented.

(d) The Legislature finds that time is of the essence and that a complete purchase of properties described in this section should be accomplished in an accelerated and economical manner.

(e) If funds cannot be identified for acquisition of these agricultural lands, it is the Legislature's intent to provide a process for development of phosphorus-discharge limitations that will bring such discharges into compliance with state water-quality standards and to provide for interim phosphorus-abatement measures designed to further reduce phosphorus discharges from the Zellwood Drainage and Water Control District, which is the largest agricultural entity within the Lake Apopka Basin. The Legislature finds that it is in the public interest to jointly share in the cost of implementing such interim phosphorus reduction measures with Zellwood.

(f) A. Duda and Sons, Inc., has implemented phosphorus treatment and has worked cooperatively with the district to meet applicable water-quality standards. An existing settlement agreement outlines treatment measures that should satisfy all discharge limitations and criteria.

(2) DEFINITIONS.—As used in this section:

(a) “District” means the St. Johns River Water Management District.

(b) “Phosphorus criterion” means a numeric interpretation for phosphorus of the Class III narrative nutrient criterion.

(c) “Stormwater management system” has the meaning set forth in s. 373.403(10).

(d) “Zellwood” means the Zellwood Drainage and Water Control District as it is described in chapter 20715, Laws of Florida.

(3) PHOSPHORUS CRITERION AND DISCHARGE LIMITATIONS FOR LAKE APOPKA.—

(a) The district shall, no later than September 30, 1996, file a notice of rulemaking in the Florida Administrative Weekly to establish a phosphorus criterion for Lake Apopka.

(b) In the event the district does not adopt a rule establishing a phosphorus criterion for Lake Apopka by January 1997, the phosphorus criterion for the lake shall be 55 parts per billion (ppb).

(c) The district shall adopt by rule discharge limitations for all permits issued by the district for discharges into Lake Apopka, the Lake Level Canal, and the McDonald Canal.

(4) CONSTRUCTION OF STORMWATER-MANAGEMENT SYSTEMS.—

(a) It is the intent of the Legislature that in the event no funding mechanisms to purchase all the lands within Zellwood are in place by July 1, 1997, construction of stormwater-management facilities to store, treat, and recycle Zellwood's agricultural stormwater runoff will be necessary during the interim period while discharge limitations are being established for Lake Apopka. The Legislature finds that it is in the public interest for state, regional, and local revenue sources to be used along with Zellwood's revenue sources to finance the costs of acquiring land and constructing such facilities. One-third of the cost of the facilities shall be contributed by Zellwood, one-third by the state, and one-third by the district.

(b) Consistent with the funding formula outlined in paragraph (a), the state will provide up to \$2 million, with the same amount being committed by both Zellwood and the district, for a total of \$6 million. These funds shall be used for the purpose of acquiring the necessary land for and constructing a stormwater-management facility, not to exceed 600 acres in total size, for Zellwood's farm runoff, together with the necessary pumps and other infrastructure associated with such facilities, provided that Zellwood's contribution shall be used for project purposes other than acquiring land.

**Amendment 6**—On page 126, lines 8-10, delete those lines and insert: *Protection Revenue*.

**Amendment 7 (with title amendment)**—On page 127, between lines 23 and 24, insert:

Section 81. Effective July 1, 1996, subsection (3) of section 259.101, Florida Statutes, is amended to read:

259.101 Florida Preservation 2000 Act.—

(3) **LAND ACQUISITION PROGRAMS SUPPLEMENTED.**—Less the costs of issuance, the costs of funding reserve accounts, and other costs with respect to the bonds, the proceeds of bonds issued pursuant to this act shall be deposited into the Florida Preservation 2000 Trust Fund created by s. 375.045. Ten percent of the proceeds of any bonds deposited into the Preservation 2000 Trust Fund shall be distributed by the Department of Environmental Protection to the Department of Environmental Protection for the purchase by the South Florida Water Management District of lands in Dade, Broward, and Palm Beach Counties identified in section 4 of this act. This distribution shall apply for any bond issue for the 1995-1996 fiscal year. The remaining proceeds shall be distributed by the Department of Environmental Protection in the following manner:

(a) Fifty percent to the Department of Environmental Protection for the purchase of public lands as described in s. 259.032. Of this 50 percent, at least one-fifth shall be used for the acquisition of coastal lands.

(b) Thirty percent to the Department of Environmental Protection for the purchase of water management lands pursuant to s. 373.59, to be distributed among the water management districts as provided in that section. Funds received by each district may also be used for acquisition of lands necessary to implement surface water improvement and management plans approved in accordance with s. 373.456 or for acquisition of lands necessary to implement the Everglades Construction Project authorized by s. 373.4592.

(c) Ten percent to the Department of Community Affairs to provide land acquisition grants and loans to local governments through the Florida Communities Trust pursuant to part III of chapter 380. Of this 10 percent, one-half shall be matched by local governments on a dollar-for-dollar basis. An additional one-tenth shall be used specifically for matching grants, also on a dollar-for-dollar basis, to counties which submit projects for acquisitions within areas of critical state concern. For 3 fiscal years following the adoption of rules governing the operations of the Green Swamp Land Authority, an additional one-tenth shall be used specifically for the purchase through land protection agreements, as defined in s. 380.0677(5), of lands, or severable interests or rights in lands, in areas of critical state concern. To the extent allowed by federal requirements for the use of bond proceeds, the trust shall expend Preservation 2000 funds to carry out the purposes of part III of chapter 380.

(d) Two and nine-tenths percent to the Department of Environmental Protection for the purchase of inholdings and additions to state parks. For the purposes of this paragraph, "state park" means all real property in the state under the jurisdiction of the Division of Recreation and Parks of the department, or which may come under its jurisdiction.

(e) Two and nine-tenths percent to the Division of Forestry of the Department of Agriculture and Consumer Services to fund the acquisition of state forest inholdings and additions pursuant to s. 589.07.

(f) Two and nine-tenths percent to the Game and Fresh Water Fish Commission to fund the acquisition of inholdings and additions to lands managed by the commission which are important to the conservation of fish and wildlife.

(g) One and three-tenths percent to the Department of Environmental Protection for the Florida Rails to Trails Program, to acquire abandoned railroad rights-of-way and to assist in the acquisition of the Florida National Scenic Trail for use as public recreational trails.

Local governments may use federal grants or loans, private donations, or environmental mitigation funds, including environmental mitigation funds required pursuant to s. 338.250, for any part or all of any local match required for the purposes described in this subsection. Bond proceeds allocated pursuant to paragraph (c) may be used to purchase lands

on the priority lists developed pursuant to s. 259.035. Title to lands purchased pursuant to paragraphs (a), (d), (e), (f), and (g) shall be vested in the Board of Trustees of the Internal Improvement Trust Fund, except that title to lands, or rights or interests therein, acquired by either the Southwest Florida Water Management District or the St. Johns River Water Management District in furtherance of the Green Swamp Land Authority's mission pursuant to s. 380.0677(3), shall be vested in the district where the acquisition project is located. Title to lands purchased pursuant to paragraph (c) may be vested in the Board of Trustees of the Internal Improvement Trust Fund, except that title to lands, or rights or interests therein, acquired by either the Southwest Florida Water Management District or the St. Johns River Water Management District in furtherance of the Green Swamp Land Authority's mission pursuant to s. 380.0677(3), shall be vested in the district where the acquisition project is located. ~~This subsection is Paragraphs (a) and (b) are repealed effective October 1, 2000, and paragraphs (c), (d), (e), (f), and (g) are repealed effective October 1, 1996.~~ Prior to repeal, the Legislature shall review the provisions scheduled for repeal and shall determine whether to reenact or modify the provisions or to take no action.

(Renumber subsequent section.)

And the title is amended as follows:

On page 3, line 21, after the semicolon (;) insert: amending s. 259.101, F.S.; deleting requirements for the repeal of certain distributions of Preservation 2000 proceeds;

**Amendment 8**—On page 127, lines 24 and 25, delete those lines and insert:

Section 81. Except as otherwise provided herein, this act shall take effect July 1, 1996.

**Amendment 9**—On page 127, between lines 7 and 8, insert:

Section 74. There is hereby appropriated for fiscal year 1996-97 from the Save Our State Environmental Education Trust Fund to the Department of Environmental Protection the sum of \$645,000, in addition to other appropriations contained in HB 2715, for the purpose of recovery, study, and analysis of the unprecedented mass mortality of manatees in Southwest Florida, including movement studies, tissue analysis and storage, necropsies, and other related matters.

(Renumber subsequent sections.)

Senator Dudley moved the following amendment which was adopted:

**Amendment 10**—In title, on page 2, line 11, delete "320.08058,"

On motion by Senator Dantzler, by two-thirds vote **HB 1793** as amended was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—37      Nays—None

## RECONSIDERATION OF BILL

On motion by Senator Ostalkiewicz, the Senate reconsidered the vote by which—

**CS for SB 1692**—A bill to be entitled An act relating to nonpublic postsecondary institutions; amending s. 246.011, F.S.; declaring the intent of the Legislature to establish a religious exemption from licensing; amending s. 246.041, F.S.; authorizing the State Board of Independent Colleges and Universities to contract with educational agencies; amending s. 246.081, F.S.; deleting the requirement of authorization to operate; amending s. 246.083, F.S.; deleting requirements for an authorization to operate; establishing the requirements for a religious exemption from licensing by the board; providing guidelines for religious nonpublic colleges to qualify for an exemption; amending s. 246.085, F.S.; conforming provisions; amending s. 246.095, F.S.; requiring maintenance of records of previous education and training; amending s. 246.101, F.S.; authorizing waiver of fees; conforming language; repealing s. 246.021(2), (7), and (10), relating to definitions of the terms "authorization," "ecclesiastical program or major," and "religious institution"; providing an effective date.

370.021, 370.06, 370.0608, 370.0609, 370.061, 370.062, 370.063, 370.07, 370.12, 370.14, 370.142, 370.143, 370.153, 370.1535, 370.16, 373.129, 373.309, 373.430, 373.451, 373.455, 373.457, 373.459, 376.11, 376.30, 376.303, 376.307, 376.3078, 376.3079, 376.40, 376.70, 376.75, 377.2425, 377.247, 377.41, 380.0558, 403.0615, 403.0871, 403.121, 403.1822, 403.1832, 403.1838, 403.518, 403.5365, 403.726, 403.727, 403.9421, 717.113, and 932.7055, F.S., to conform to the abolition of these trust funds; correcting cross references; creating s. 370.0603, F.S.; providing for purposes and proceeds of the Marine Resources Conservation Trust Fund; amending ss. 1 and 2, ch. 94-198, Laws of Florida; providing for administration of the Minerals Trust Fund by the Department of Environmental Protection; repealing s. 229.8064, F.S., relating to the Save Our State Environmental Education Trust Fund; repealing s. 370.029, F.S., relating to the Marine Fisheries Commission Trust Fund; repealing s. 370.16(15) and (18), F.S., relating to the Apalachicola Bay Conservation Trust Fund and to disposition of a severance tax on oysters and clams; repealing s. 373.495, F.S., relating to the Water Resources Development Account; repealing s. 380.0555(12), F.S., relating to the Apalachicola Bay Protection Trust Fund and sewerage improvement grants; repealing s. 403.165, F.S., relating to the Pollution Recovery Fund; repealing s. 403.1824, F.S., relating to the State Water Pollution Control Trust Fund; repealing s. 403.1825, F.S., relating to grant payments from such trust fund; repealing s. 403.704(21), F.S., relating to the duties of the department with respect to the Hazardous Waste Management Trust Fund; repealing s. 403.725, F.S., relating to the Hazardous Waste Management Trust Fund; providing effective dates.

—a companion measure, was substituted for **SB 48** and read the second time by title.

Senator Dantzler moved the following amendments which were adopted:

**Amendment 1 (with title amendment)**—On page 4, line 18 through page 5, line 2, delete those lines and renumber subsequent paragraphs.

And the title is amended as follows:

On page 1, lines 11-13, delete “the Save Our State Environmental Education Trust Fund,”

**Amendment 2 (with title amendment)**—On page 18, lines 4-12, delete those lines and renumber subsequent sections.

And the title is amended as follows:

On page 2, line 10, delete “229.8058,”

Senator Dantzler moved the following amendment:

**Amendment 3**—On page 19, line 13 through page 20, line 14, delete those lines and insert:

Section 15. Paragraph (b) of subsection (1) of section 320.08058, Florida Statutes, is amended to read:

320.08058 Specialty license plates.—

(1) MANATEE LICENSE PLATES.—

(b)1. Fifty percent of the manatee license plate annual use fee must be deposited into the Save the Manatee Trust Fund, created within the Department of Environmental Protection. The funds deposited in the Save the Manatee Trust Fund may be used only for manatee research; facilities, as provided in s. 370.12(5)(b); and manatee protection; and recovery.

2. Fifty percent of the manatee license plate annual use fee must be deposited into the Save Our State Environmental Education Trust Fund within the Department of Environmental Protection and must be used for environmental education.

Senator Grant moved the following substitute amendment which was adopted:

**Amendment 4 (with title amendment)**—On page 128, between lines 23 and 24, insert:

Section 70. Paragraph (b) of subsection (1) of section 320.08058, Florida Statutes, is amended to read:

320.08058 Specialty license plates.—

(1) MANATEE LICENSE PLATES.—

(b)1. Fifty percent of the manatee license plate annual use fee ~~shall~~ must be deposited into the Save the Manatee Trust Fund, created within the Department of Environmental Protection. The funds deposited in the Save the Manatee Trust Fund ~~shall~~ may be used only for manatee research, protection, and recovery.

2. Twenty-five ~~Fifty~~ percent of the manatee license plate annual use fee ~~shall~~ must be deposited into the Save Our State Environmental Education Trust Fund within the Department of Environmental Protection and ~~shall~~ must be used for environmental education.

3. Twenty-five percent of the manatee license plate annual use fee ~~shall~~ must be deposited into the Save the Manatee Trust Fund within the Department of Environmental Protection and shall be used for manatee facilities as provided in s. 370.12(5)(b).

Section 71. Paragraph (b) of subsection (5) of section 370.12, Florida Statutes, is amended to read:

370.12 Marine animals; regulation.—

(5) ANNUAL FUNDING OF PROGRAMS FOR MARINE ANIMALS.—

(b) Each fiscal year moneys in the Save the Manatee Trust Fund shall also be used, pursuant to s. 327.28(1)(b), to reimburse the cost of activities related to manatee rehabilitation by facilities that rescue, rehabilitate, and release manatees as authorized pursuant to the Fish and Wildlife Service of the United States Department of the Interior. Such facilities must be involved in the actual rescue and full-time acute care veterinarian-based rehabilitation of manatees. The cost of activities includes, but is not limited to, costs associated with expansion, capital outlay, repair, maintenance, and operations related to the rescue, treatment, stabilization, maintenance, release, and monitoring of manatees. Moneys distributed through contractual agreement to each facility for manatee rehabilitation shall be proportionate to the number of manatees under acute care rehabilitation and those released during the previous fiscal year. However, the reimbursement may not exceed the total amount available pursuant to ss. 320.08058(1)(b)3., 327.25(7), and 327.28(1)(b) for the purposes provided in this paragraph. Prior to receiving reimbursement for the expenses of rescue, rehabilitation, and release, a facility that qualifies under state and federal regulations shall submit a plan to the Department of Environmental Protection for assisting the department and the Department of Highway Safety and Motor Vehicles in marketing the manatee specialty license plates. At a minimum, the plan shall include provisions for graphics, dissemination of brochures, recorded oral and visual presentation, and maintenance of a marketing exhibit. The plan shall be updated annually and the Department of Environmental Protection shall inspect each marketing exhibit at least once each year to ensure the quality of the exhibit and promotional material. Each facility that receives funds for manatee rehabilitation shall annually provide the department a written report, within 30 days after the close of the state fiscal year, documenting the efforts and effectiveness of the facility's promotional activities.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 2, line 26, after the semicolon (;) insert: amending ss. 320.08058, 370.12, F.S.; providing for a portion of the manatee license plate annual use fee to be deposited into the Save the Manatee Trust Fund within the Department of Environmental Protection and used for manatee facilities;

Senator Dantzler moved the following amendments which were adopted:

**Amendment 5 (with title amendment)**—On page 127, lines 8-10, delete those lines and renumber subsequent sections.

And the title is amended as follows:

On page 2, line 30 through page 3, line 1, delete “repealing s. 229.8064, F.S., relating to the Save Our State Environmental Education Trust Fund;”

~~and the reports shall include the written reasons or transcripts in each case in which the court determines not to impose a habitual felony offender sanction or a habitual violent felony offender sanction such sentence.~~

(b) In a separate proceeding, the court shall determine *whether* if the defendant is a violent career criminal, with respect to a primary offense committed on or after October 1, 1995. The procedure shall be as follows:

1. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

2. All evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

3. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable only as provided in paragraph (c).

4. For the purpose of identification, the court shall fingerprint the defendant pursuant to s. 921.241.

5. For an offense committed on or after October 1, 1995, *if the state attorney pursues a violent career criminal sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the a defendant as who meets the criteria for a violent career criminal, subject to imprisonment pursuant to this section paragraph (4)(e) unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence the a defendant who meets the criteria for sentencing as a violent career criminal to imprisonment pursuant to paragraph (4)(e), the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. Each month, the court shall submit monthly reports to the Sentencing Commission regarding violent career criminal sentencing under this section, and the reports shall include the written reasons or transcripts in each case in which the court determines not to impose a violent career criminal sanction such sentence.*

(c)1. A person sentenced under paragraph (4)(c) as a violent career criminal has the right of direct appeal, and either the state or the defendant may petition the trial court to vacate an illegal sentence at any time. However, the determination of the trial court to impose or not to impose a violent career criminal sentence is presumed appropriate and no petition or motion for collateral or other postconviction relief may be considered based on an allegation either by the state or the defendant that such sentence is inappropriate, inadequate, or excessive.

2. It is the intent of the Legislature that, with respect to both direct appeal and collateral review of violent career criminal sentences, all claims of error or illegality be raised at the first opportunity and that no claim should be filed more than 2 years after the judgment and sentence became final, unless it is established that the basis for the claim could not have been ascertained at the time by the exercise of due diligence. Technical violations and mistakes at trials and sentencing proceedings involving violent career criminals that do not affect due process or fundamental fairness are not appealable by either the state or the defendant.

3. It is the intent of the Legislature that no funds, resources, or employees of the state or its political subdivisions be used, directly or indirectly, in appellate or collateral proceedings based on violent career criminal sentencing, except when such use is constitutionally or statutorily mandated.

(4)(a) The court, in conformity with the procedure established in paragraph (3)(a), may ~~shall~~ sentence the habitual felony offender as follows:

1. In the case of a life felony or a felony of the first degree, for life.

2. In the case of a felony of the second degree, for a term of years not exceeding 30.

3. In the case of a felony of the third degree, for a term of years not exceeding 10.

(b) The court, in conformity with the procedure established in paragraph (3)(a), may sentence the habitual violent felony offender as follows:

1. In the case of a life felony or a felony of the first degree, for life, and such offender shall not be eligible for release for 15 years.

2. In the case of a felony of the second degree, for a term of years not exceeding 30, and such offender shall not be eligible for release for 10 years.

3. In the case of a felony of the third degree, for a term of years not exceeding 10, and such offender shall not be eligible for release for 5 years.

(c) The court, in conformity with the procedure established in paragraph (3)(b), shall sentence the violent career criminal as follows:

1. In the case of a life felony or a felony of the first degree, for life.

2. In the case of a felony of the second degree, for a term of years not exceeding 40, with a mandatory minimum term of 30 years' imprisonment.

3. In the case of a felony of the third degree, for a term of years not exceeding 15, with a mandatory minimum term of 10 years' imprisonment.

~~An offender sentenced under this paragraph is not eligible for any form of discretionary early release except conditional medical release under s. 947.149.~~

(d) If the court finds, pursuant to ~~paragraph subparagraph~~ (3)(a)6. or ~~paragraph subparagraph~~ (3)(b)5., that it is not necessary for the protection of the public to sentence a defendant who meets the criteria for sentencing as a habitual felony offender, a habitual violent felony offender, or a violent career criminal, with respect to an offense committed on or after October 1, 1995, sentence shall be imposed without regard to this section.

(e) At any time when it appears to the court that the defendant is eligible for sentencing under this section, the court shall make that determination as provided in paragraph (3)(a) or paragraph (3)(b).

(f) A sentence imposed under this section shall not be increased after such imposition.

(g) A sentence imposed under this section is not subject to s. 921.001.

(h) The provisions of this section do not apply to capital felonies, and a sentence authorized under this section does not preclude the imposition of the death penalty for a capital felony.

(i) The provisions of s. 947.1405 shall apply to persons sentenced as habitual felony offenders and persons sentenced as habitual violent felony offenders.

(j)1. A defendant sentenced under this section as a habitual felony offender, ~~or a habitual violent felony offender, or a violent career criminal is not eligible for gain-time granted by the Department of Corrections, except that the department may grant up to 25 days of incentive gain-time each month as provided in s. 944.275(4).~~

2. For an offense committed on or after October 1, 1995, a defendant sentenced under this section as a violent career criminal is not eligible for ~~any form of gain-time granted by the Department of Corrections, except the department may grant up to 5 days of incentive gain-time each month as provided in s. 944.275(4)(b)3. An inmate is not eligible to earn any type of gain-time that would cause the inmate's sentence to expire, end, or terminate, or that would result in the inmate's release, prior to serving a minimum of 85 percent of the court-imposed sentence. The department shall not grant further gain-time awards to an inmate whose tentative release date is the same as the date at which the inmate will have served 85 percent of the court-imposed sentence. discretionary early release, other than pardon or; executive clemency, or conditional medical release granted pursuant to s. 947.149, is expressly prohibited.~~

(6) The purpose of this section is to provide uniform punishment for those crimes made punishable under this section, and to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

Section 2. Section 775.0842, Florida Statutes, is amended to read:

775.0842 Persons subject to career criminal prosecution efforts.—A person who is under arrest for the commission, attempted commission, or conspiracy to commit any felony in this state shall be the subject of career criminal prosecution efforts provided that such person qualifies as a habitual felony offender, ~~or~~ a habitual violent felony offender, or a violent career criminal, under s. 775.084.

Section 3. Subsection (7) of section 921.0011, Florida Statutes, is amended to read:

921.0011 Definitions.—As used in this chapter, the term:

(7) "Victim injury" means the physical injury or death suffered by a person as a direct result of the primary offense, or any offense other than the primary offense, for which an offender is convicted and which is pending before the court for sentencing at the time of the primary offense. If the conviction is for an offense involving sexual contact which includes sexual penetration, the sexual penetration must be scored *in accordance with the sentence points provided under s. 921.0014 for sexual penetration, as a severe injury* regardless of whether there is evidence of any physical injury. If the conviction is for an offense involving sexual contact which does not include sexual penetration, the sexual contact must be scored *in accordance with the sentence points provided under s. 921.0014 for sexual contact, as a moderate injury* regardless of whether there is evidence of any physical injury. If the victim of an offense involving sexual contact suffers any physical injury as a direct result of the primary offense or any other offense committed by the offender resulting in conviction, such physical injury must be scored separately and in addition to the points scored for the sexual contact or the sexual penetration.

Section 4. Subsections (1) and (2) and paragraphs (c), (e), (f), (g), and (i) of subsection (3) of section 921.0012, Florida Statutes, are amended to read:

921.0012 Sentencing guidelines offense levels; offense severity ranking chart.—

(1) ~~The A single~~ offense severity ranking chart must be used *with the sentencing guidelines worksheet* to compute a sentence score for each felony offender.

(2) The offense severity ranking chart has 10 offense levels, ranked from least severe to most severe, and each felony offense is assigned to a level according to the severity of the offense. *For purposes of determining which felony offenses are specifically listed in the offense severity ranking chart and which severity level has been assigned to each of these offenses, the numerical statutory references in the left column of the chart and the felony degree designations in the middle column of the chart are controlling; the language in the right column of the chart is provided solely for descriptive purposes. Reclassification of the degree of the felony through the application of s. 775.0845, s. 775.087, s. 775.0875, s. 794.023, or s. 874.04 to any offense listed in the offense severity ranking chart in this section shall not cause the offense to become unlisted and is not subject to the provisions of s. 921.0013.*

### (3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description	Florida Statute	Felony Degree	Description
		(c) LEVEL 3			
39.061	3rd	Escapes from juvenile facility (secure detention or residential commitment facility).	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
			501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
			697.08	3rd	Equity skimming.
			790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
			796.05(1)	3rd	Live on earnings of a prostitute.
			806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in fire-fighting.
			806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
			810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
			812.014(2)(c)2.-	3rd	Grand theft; \$5,000 or more but less than \$10,000.
			815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
			817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
			817.233	3rd	Burning to defraud insurer.
			828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
			831.29	2nd	Possession of instruments for counterfeiting drivers' licenses.
			838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
			843.19	3rd	Injure, disable, or kill police dog or horse.
			870.01(2)	3rd	Riot; inciting or encouraging.
			893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs).
			893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c), (3), or (4) drugs within 200 feet of university, public housing facility, or public park.
			893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
			893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
			893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
			918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
			944.47(1)(a)1.-2.	3rd	Introduce contraband to correctional facility.
			944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
					(e) LEVEL 5
			316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.



Florida Statute	Felony Degree	Description	Florida Statute	Felony Degree	Description
316.1935(3)	3rd	Aggravated fleeing or eluding.	787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
322.34(3)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.	790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
790.01(2)	3rd	Carrying a concealed firearm	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
790.162	2nd	Threat to throw or discharge destructive device.	794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
790.163	2nd	False report of deadly explosive.	794.05(1)	2nd	Unlawful carnal intercourse with unmarried person under 18 of previous chaste character.
790.164(1)	2nd	False report of deadly explosive or act of arson or violence to state property.	806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
790.165(2)	3rd	Manufacture, sell, possess, or deliver hoax bomb.	810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.	812.014(2)(b)	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
790.23	2nd	Felons in possession of firearms or electronic weapons or devices.	812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.	817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
812.019(1)	2nd	Stolen property; dealing in or trafficking in.	825.103(2)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.
812.16(2)	3rd	<i>Owning, operating, or conducting a chop shop</i>	827.071(2)&(3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.	836.05	2nd	Threats; extortion.
827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.	836.10	2nd	Written threats to kill or do bodily injury.
843.01	3rd	Resist officer with violence to his person; resist arrest with violence.	843.12	3rd	Aids or assists person to escape.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs) within 1,000 feet of a school.	944.40	2nd	Escapes.
893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 200 feet of university, public housing facility, or public park.	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
893.13(4)(b)	2nd	Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs).	944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
944.35(3)	3rd	Inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.	951.22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.
951.075	2nd	Prisoner commits assault or battery.	316.193(3)(c)2.	3rd	(g) LEVEL 7 DUI resulting in serious bodily injury.
		(f) LEVEL 6	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
316.027(1)(b)	2nd	Accident involving death, failure to stop; leaving scene.	782.07	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.	782.071(1)	3rd	Killing of human being by the operation of a motor vehicle in a reckless manner (vehicular homicide).
<del>775.087(2)(a)2.</del>		<del>Battery upon law enforcement officer or firefighter while possessing firearm.</del>	782.072(1)	3rd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
775.0875(1)	3rd	Taking firearm from law enforcement officer.	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(3)	3rd	Aggravated stalking; credible threat.			
784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.			
784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.			

Florida Statute	Felony Degree	Description	Florida Statute	Felony Degree	Description
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.	787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.	790.161	1st	Attempted capital destructive device offense.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
790.16(1)	1st	Discharge of a machine gun under specified circumstances.	794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
796.03	2nd	Procuring any person under 16 years for prostitution.	794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
800.04	2nd	Handle, fondle, or assault child under 16 years in lewd, lascivious, or indecent manner.	812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon
806.01(2)	2nd	Maliciously damage structure by fire or explosive.	812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
810.02(3)(d)(e)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.	859.01	1st	Poisoning food, drink, medicine, or water with intent to kill or injure another person.
812.014(2)(a)	1st	Property stolen, valued at \$100,000 or more; 1st degree grand theft.	893.135	1st	Attempted capital trafficking offense.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.	893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.	893.135	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
825.102(2)	3rd	Abusing or neglecting an elderly person or disabled adult.	893.135(1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.	893.135(1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
827.04(1)	3rd	Deprive child of necessities causing great bodily harm or disfigurement.	893.135(1)(d)3.	1st	Trafficking in phencyclidine, more than 400 grams.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 1,000 feet of a school.	893.135(1)(e)3.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).	893.135(1)(f)3.	1st	Trafficking in amphetamine, more than 200 grams.
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 50 lbs., less than 2,000 lbs.	<p>Section 5. Section 921.0013, Florida Statutes, is amended to read:</p> <p>921.0013 Sentencing guidelines; ranking unlisted felony offenses.—A felony offense not listed in s. 921.0012 is ranked with respect to offense severity level by the Legislature, commensurate with the harm or potential harm that is caused by the offense to the community. <del>Until Prior to the time the Legislature specifically assigns ranks an offense to a severity level in the offense severity ranking chart which has not been ranked,</del> the severity level is within the following parameters:</p> <ol style="list-style-type: none"> <li>(1) A felony of the third degree within offense level 1.</li> <li>(2) A felony of the second degree within offense level 4.</li> <li>(3) A felony of the first degree within offense level 7.</li> <li>(4) A felony of the first degree punishable by life within offense level 9.</li> <li>(5) A life felony within offense level 10.</li> </ol> <p><i>For purposes of determining whether a felony offense has been specifically listed in the offense ranking chart provided in s. 921.0012(3), and the severity level that has been assigned to an offense listed in the chart, the numerical statutory reference in the left column of the chart, and the felony degree designation in the middle column of the chart, are controlling; the language in the right column of the chart is provided solely for descriptive purposes.</i></p>		
893.135(1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.			
893.135(1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.			
893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.			
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.			
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.			
		(i) LEVEL 9			
782.04(1)	1st	<del>Attempt, conspire, or solicit to commit Attempted</del> premeditated murder.			
782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.			
787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.			
787.01(1)(a)2	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.			
787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.			

Section 6. Subsection (1) of section 921.0014, Florida Statutes, is amended to read:

921.0014 Sentencing guidelines; worksheet computations; scoresheets.—

(1)(a) The sentencing guidelines worksheet is used to compute the subtotal and total sentence points as follows:

**FLORIDA SENTENCING GUIDELINES WORKSHEET**  
**OFFENSE SCORE**

Primary Offense			Total
Level	Sentence Points		
10	116	=	
9	92	=	
8	74	=	
7	56	=	
6	36	=	
5	28	=	
4	22	=	
3	16	=	
2	10	=	
1	4	=	

Total

Additional Offenses			Total
Level	Sentence Points	Counts	
10	58	x	=
9	46	x	=
8	37	x	=
7	28	x	=
6	18	x	=
5	5.4	x	=
4	3.6	x	=
3	2.4	x	=
2	1.2	x	=
1	0.7	x	=
M	0.2	x	=

Total

Victim Injury			Total
Level	Sentence Points	Number	
2nd degree			
murder-death	240	x	=
Death	120	x	=
Severe	40	x	=
Sexual			
penetration	80	x	=
Moderate	18	x	=
Sexual			
contact	40	x	=
Slight	4	x	=

Total

Primary Offense + Additional Offenses + Victim Injury =

**TOTAL OFFENSE SCORE**

**PRIOR RECORD SCORE**

Prior Record			Total
Level	Sentence Points	Number	
10	29	x	=
9	23	x	=
8	19	x	=
7	14	x	=
6	9	x	=
5	3.6	x	=
4	2.4	x	=
3	1.6	x	=
2	0.8	x	=
1	0.5	x	=
M	0.2	x	=

Total

**TOTAL OFFENSE SCORE**  
**TOTAL PRIOR RECORD SCORE**

**LEGAL STATUS**  
**COMMUNITY SANCTION VIOLATION**  
**PRIOR SERIOUS FELONY**  
**PRIOR CAPITAL FELONY**  
**FIREARM OR SEMIAUTOMATIC WEAPON**

SUBTOTAL\_\_\_\_\_

**VIOLENT CAREER CRIMINAL** (no)(yes)  
**VIOLENT HABITUAL OFFENDER** (no)(yes)  
**HABITUAL OFFENDER** (no)(yes)  
**DRUG TRAFFICKER** (no)(yes) (x multiplier)  
**LAW ENF. PROTECT.** (no)(yes) (x multiplier)  
**MOTOR VEHICLE THEFT** (no)(yes) (x multiplier)

**TOTAL SENTENCE POINTS**

(b) **WORKSHEET KEY.**

Legal status points are assessed when any form of legal status existed at the time the offender committed an offense before the court for sentencing. Four (4) sentence points are assessed for an offender's legal status.

Community sanction violation points are assessed when a community sanction violation is before the court for sentencing. Six (6) sentence points are assessed for each community sanction violation, and each successive community sanction violation; however, if the community sanction violation includes a new felony conviction before the sentencing court, twelve (12) community sanction violation points are assessed for such violation, and for each successive community sanction violation involving a new felony conviction. *Multiple counts of community sanction violations before the sentencing court shall not be a basis for multiplying the assessment of community sanction violation points.*

Prior serious felony points: If the offender has a primary offense or any additional offense ranked in level 8, level 9, or level 10, and one or more prior serious felonies, a single assessment of an additional 30 points shall be added assessed. For purposes of this section, a prior serious felony is an offense in the offender's prior record that is ranked in level 8, level 9, or level 10 under s. 921.0012 or s. 921.0013 and for which the offender is serving a sentence of confinement, supervision, or other sanction or for which the offender's date of release from confinement, supervision, or other sanction, whichever is later, is ~~has been found guilty; which was committed within 3 years before the date the primary offense or any additional offense was committed; and which is ranked in level 8, level 9, or level 10 under s. 921.0012 or s. 921.0013, or would be ranked in level 8, level 9, or level 10 under s. 921.0012 or s. 921.0013, if the offense were committed in this state.~~

Prior capital felony points: If the offender has one or more prior capital felonies, points shall be added to the subtotal sentence points of the offender equal to twice the number of points the offender receives for the primary offense and any additional offense. A prior capital felony is a capital felony as an offense for which the offender has been found guilty; or a felony in another jurisdiction which is a capital felony in that jurisdiction, or would be a capital felony if the offense were committed in this state.

Possession of a firearm, semiautomatic firearm, or machine gun: If the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(2) while having in his possession: a firearm as defined in s. 790.001(6), an additional 18 sentence points are assessed; or if the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(3) while having in his possession a semiautomatic firearm as defined in s. 775.087(3) or a machine gun as defined in s. 790.001(9), an additional 25 sentence points are assessed.

Sentencing multipliers:

Drug trafficking: If the primary offense is drug trafficking under s. 893.135, the subtotal sentence points are multiplied, at the discretion of the court, for a level 7 or level 8 offense, by 1.5. The state attorney may move the sentencing court to reduce or suspend the sentence of a person convicted of a level 7 or level 8 offense, if the offender provides substantial assistance as described in s. 893.135(4).

Law enforcement protection: If the primary offense is a violation of the Law Enforcement Protection Act under s. 775.0823(2), the subtotal sentence points are multiplied by 2.5. If the primary offense is a violation

of s. 775.0823(3), (4), (5), (6), (7), or (8), the subtotal sentence points are multiplied by 2.0. If the primary offense is a violation of s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement Protection Act under s. 775.0823(9) or (10), ~~then~~ the subtotal sentence points are multiplied by 1.5.

Grand theft of a motor vehicle: If the primary offense is grand theft of the third degree involving a motor vehicle and in the offender's prior record, there are three or more grand thefts of the third degree involving a motor vehicle, the subtotal sentence points are multiplied by 1.5.

Section 7. Paragraphs (a), (b), and (c) of subsection (1) of section 893.135, Florida Statutes, are amended to read:

893.135 Trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.—

(1) Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13:

(a) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, in excess of 50 ~~100~~ pounds of cannabis commits a felony of the first degree, which felony shall be known as "trafficking in cannabis." If the quantity of cannabis involved:

1. Is in excess of 50 ~~100~~ pounds, but less than 2,000 pounds, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of \$25,000.

2. Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of \$50,000.

3. Is 10,000 pounds or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$200,000.

(b)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of cocaine, as described in s. 893.03(2)(a)4., or of any mixture containing cocaine, but less than 150 kilograms of cocaine or any such mixture, commits a felony of the first degree, which felony shall be known as "trafficking in cocaine." If the quantity involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of \$50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of \$100,000.

c. Is 400 grams or more, but less than 150 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$250,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 150 kilograms or more of cocaine, as described in s. 893.03(2)(a)4., commits the first degree felony of trafficking in cocaine. A person who has been convicted of the first degree felony of trafficking in cocaine under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except *pardon or executive clemency* or conditional medical release under s. 947.149. However, *if the court determines that, in addition to committing the commission of any act specified in this paragraph, that person:*

a. *The person intentionally killed kills an individual or counseled, commanded, induced, procured, or caused counsels, commands, induces, procures, or causes the intentional killing of an individual and such killing was the result results; or*

b. *The person's conduct in committing Is determined, with respect to the commission of that act, to have had a highly culpable mental state and, as a result of that act, the defendant's conduct led to a natural, though not inevitable, lethal result, which state may be taken into account in any capital sentencing judgment;*

such person commits the capital felony of trafficking in cocaine, punishable as provided in ss. 775.082 and 921.142. ~~Any Such person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1. For the purposes of this paragraph, a "highly culpable mental state" is represented by a reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death.~~

(c)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b) or (2)(a), or 4 grams or more of any mixture containing any such substance, but less than 30 kilograms of such substance or mixture, commits a felony of the first degree, which felony shall be known as "trafficking in illegal drugs." If the quantity involved:

a. Is 4 grams or more, but less than 14 grams, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of \$50,000.

b. Is 14 grams or more, but less than 28 grams, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of \$100,000.

c. Is 28 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and pay a fine of \$500,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 30 kilograms or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b) or (2)(a), or 30 kilograms or more of any mixture containing any such substance, commits the first degree felony of trafficking in illegal drugs. A person who has been convicted of the first degree felony of trafficking in illegal drugs under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except *pardon or executive clemency* or conditional medical release under s. 947.149. However, *if the court determines that, in addition to committing the commission of any act specified in this paragraph, that person:*

a. *The person intentionally killed kills an individual or counseled, commanded, induced, procured, or caused counsels, commands, induces, procures, or causes the intentional killing of an individual and such killing was the result results; or*

b. *The person's conduct in committing Is determined, with respect to the commission of that act, to have had a highly culpable mental state and, as a result of that act, the defendant's conduct led to a natural, though not inevitable, lethal result, which state may be taken into account in any capital sentencing judgment;*

such person commits the capital felony of trafficking in illegal drugs, punishable as provided in ss. 775.082 and 921.142. ~~Any Such person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1. For the purposes of this paragraph, a "highly culpable mental state" is represented by a reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death.~~

Section 8. Subsections (2) and (3) of section 775.087, Florida Statutes, are amended to read:

775.087 Possession or use of weapon; aggravated battery; felony reclassification; minimum sentence.—

(2) Any person who is convicted of a felony or an attempt to commit a felony and the conviction was for:

- (a) Murder;
- (b) Sexual battery;
- (c) Robbery;
- (d) Burglary;

- (e) Arson;
- (f) Aggravated assault;
- (g) Aggravated battery;
- (h) Kidnapping;
- (i) Escape;
- (j) Aircraft piracy;
- (k) Aggravated child abuse;
- (l) Unlawful throwing, placing, or discharging of a destructive device or bomb;
- (m) Carjacking;
- (n) Home-invasion robbery; or
- (o) Aggravated stalking

and during the commission of the offense, such person possessed a "firearm," as defined in s. 790.001(6), or "destructive device," as those terms are defined in s. 790.001(4), shall be sentenced to a minimum term of imprisonment of 3 years. Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, prior to serving the minimum sentence. ~~An offender sentenced under this subsection is not eligible for control release under s. 947.146.~~

(3)(a) Any person who is convicted of a felony or an attempt to commit a felony and the conviction was for:

- 1. Murder;
- 2. Sexual battery;
- 3. Robbery;
- 4. Burglary;
- 5. Arson;
- 6. Aggravated assault;
- 7. Aggravated battery;
- 8. Kidnapping;
- 9. Escape;
- 10. Sale, manufacture, delivery, or intent to sell, manufacture, or deliver any controlled substance;
- 11. Aircraft piracy;
- 12. Aggravated child abuse;
- 13. Unlawful throwing, placing, or discharging of a destructive device or bomb;
- 14. Carjacking;
- 15. Home-invasion robbery; or
- 16. Aggravated stalking

and during the commission of the offense, such person possessed a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun as defined in s. 790.001 ~~s. 790.001(9)~~, shall be sentenced to a minimum term of imprisonment of 8 years. Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, prior to serving the minimum sentence. ~~An offender sentenced under this subsection is not eligible for control release under s. 947.146.~~

(b) As used in this subsection, the term:

1. "High-capacity detachable box magazine" means any detachable box magazine, for use in a semiautomatic firearm, which is capable of being loaded with more than 20 centerfire cartridges.

2. "Semiautomatic firearm" means a firearm which is capable of firing a series of rounds by separate successive depressions of the trigger and which uses the energy of discharge to perform a portion of the operating cycle.

Section 9. Section 775.0875, Florida Statutes, is amended to read:

775.0875 Unlawful taking, possession, or use of law enforcement officer's firearm; crime reclassification; penalties.—

(1) A person who, without authorization, takes a firearm from a law enforcement officer lawfully engaged in law enforcement duties commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) If a person violates subsection (1) and commits any other crime involving the firearm taken from the law enforcement officer, such crime shall be reclassified as follows:

- (a)1. In the case of a felony of the first degree, to a life felony.
- 2. In the case of a felony of the second degree, to a felony of the first degree.
- 3. In the case of a felony of the third degree, to a felony of the second degree.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that which is reclassified under this paragraph is ranked one level above the ranking under s. 921.0012 ~~s. 92.0012~~ or s. 921.0013 of the felony offense committed.

(b) In the case of a misdemeanor, to a felony of the third degree. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such offense is ranked in level 2 of the offense severity ranking chart.

(3) A person who possesses a firearm that he or she which he knows was unlawfully taken from a law enforcement officer commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 10. Subsection (3) of section 784.07, Florida Statutes, is amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, or other specified officers; reclassification of offenses; minimum sentences.—

(3) Any person who is convicted of a battery under paragraph (2)(b) and, during the commission of the offense, such person possessed:

(a) A "firearm," as defined in s. 790.001(6), or "destructive device," as those terms are defined in s. 790.001(4), shall be sentenced to a minimum term of imprisonment of 3 years.

(b) A semiautomatic firearm and its high-capacity detachable box magazine, as defined in s. 775.087(3), or a machine gun as defined in s. 790.001 ~~790.001(9)~~, shall be sentenced to a minimum term of imprisonment of 8 years.

Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, prior to serving the minimum sentence. ~~An offender sentenced under this subsection is not eligible for control release under s. 947.146.~~

Section 11. Subsection (1) of section 921.187, Florida Statutes, is amended to read:

921.187 Disposition and sentencing; alternatives; restitution.—

(1) The alternatives provided in this section for the disposition of criminal cases shall be used in a manner *that* ~~which~~ will best serve the needs of society, ~~which will~~ punish criminal offenders, and ~~which will~~ provide the opportunity for rehabilitation.

(a) If the offender does not receive a state prison sentence, ~~the~~ a court may:

1. Impose a split sentence whereby the offender is to be placed on probation upon completion of any specified period of such sentence, which period may include a term of years or less.

2. Make any other disposition that is authorized by law.

3. Place the offender on probation with or without an adjudication of guilt pursuant to s. 948.01.

4. Impose a fine and probation pursuant to s. 948.011 when the offense is punishable by both a fine and imprisonment and probation is authorized.

5. Place the offender into community control requiring intensive supervision and surveillance pursuant to chapter 948.

6. Impose, as a condition of probation or community control, a period of treatment which shall be restricted to a county facility, a Department of Corrections probation and restitution center, a probation program drug punishment treatment community, or a community residential or nonresidential facility, excluding a community correctional center as defined in s. 944.026, which is owned and operated by any qualified public or private entity providing such services. Before admission to such a facility, the court shall obtain an individual assessment and recommendations on the appropriate treatment needs, which shall be considered by the court in ordering such placements. Placement in such a facility, except for a county residential probation facility, may not exceed 364 days. Placement in a county residential probation facility may not exceed 3 years. Early termination of placement may be recommended to the court, when appropriate, by the center supervisor, the supervising probation officer, or the probation program manager.

7. Sentence the offender pursuant to s. 922.051 to imprisonment in a county jail when a statute directs imprisonment in a state prison, if the offender's cumulative sentence, whether from the same circuit or from separate circuits, is not more than 364 days.

8. Sentence the offender who is to be punished by imprisonment in a county jail to a jail in another county if there is no jail within the county suitable for such prisoner pursuant to s. 950.01.

9. Require the offender to participate in a work-release or educational or vocational training program pursuant to s. 951.24 while serving a sentence in a county jail, if such a program is available.

10. Require the offender to perform a specified public service pursuant to s. 775.091.

11. Require the offender who violates chapter 893 or violates any law while under the influence of a controlled substance or alcohol to participate in a substance abuse program.

12.a. Require the offender who violates any criminal provision of chapter 893 to pay an additional assessment in an amount up to the amount of any fine imposed, pursuant to ss. 893.13(8)(a) and 893.16.

b. Require the offender who violates any provision of s. 893.13 to pay an additional assessment in an amount of \$100, pursuant to ss. 893.13(8)(b) and 943.361.

13. Impose a split sentence whereby the offender is to be placed in a county jail or county work camp upon the completion of any specified term of community supervision.

14. Impose split probation whereby upon satisfactory completion of half the term of probation, the Department of Corrections may place the offender on administrative probation pursuant to s. 948.01 for the remainder of the term of supervision.

15. Require residence in a state probation and restitution center or private drug treatment program for offenders on community control or offenders who have violated conditions of probation.

16. Impose any other sanction which is provided within the community and approved as an intermediate sanction by the county public safety coordinating council as described in s. 951.26.

17. Impose, as a condition of community control, probation, or probation following incarceration, a requirement that an offender who has not obtained a high school diploma or high school equivalency diploma or who lacks basic or functional literacy skills, upon acceptance by an adult education program, make a good faith effort toward completion of such basic or functional literacy skills or high school equivalency diploma, as defined in s. 229.814, in accordance with the assessed adult general education needs of the individual offender.

(b)1. Notwithstanding any provision of s. 921.001 to the contrary, on or after October 1, 1993, *the court may* require any defendant who violates s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), and meets the criteria described in s. 893.13(10), to successfully complete a term of probation pursuant to the terms and conditions set forth in s. 948.034(1), in lieu of serving a term of imprisonment.

2. Notwithstanding any provision of s. 921.001 to the contrary, on or after October 1, 1993, *the court may* require any defendant who violates s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), and meets the criteria described in s. 893.13(11), to successfully complete a term of probation pursuant to the terms and conditions set forth in s. 948.034(2), in lieu of serving a term of imprisonment.

Section 12. Paragraphs (b) and (d) of subsection (4) of section 944.275, Florida Statutes, are amended to read:

944.275 Gain-time.—

(4)

(b) For each month in which an inmate works diligently, participates in training, uses time constructively, or otherwise engages in positive activities, the department may grant incentive gain-time in accordance with this paragraph. The rate of incentive gain-time in effect on the date the inmate committed the offense which resulted in his or her incarceration shall be the inmate's rate of eligibility to earn incentive gain-time throughout the period of incarceration and shall not be altered by a subsequent change in the severity level of the offense for which the inmate was sentenced.

1. For sentences imposed for offenses committed prior to January 1, 1994, up to 20 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

2. For sentences imposed for offenses committed on or after January 1, 1994, and before October 1, 1995:

a. For offenses ranked in offense severity levels 1 through 7, under s. 921.0012 or s. 921.0013, up to 25 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

b. For offenses ranked in offense severity levels 8, 9, and 10, under s. 921.0012 or s. 921.0013, up to 20 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

3. For sentences imposed for offenses committed on or after October 1, 1995, the department may grant up to 10 days per month of incentive gain-time, except that no prisoner is eligible to earn any type of gain-time in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, prior to serving a minimum of 85 percent of the sentence imposed. *For purposes of this subparagraph, credits awarded by the court for time physically incarcerated shall be credited toward satisfaction of 85 percent of the sentence imposed.* Except as provided by this section, a prisoner shall not accumulate further gain-time awards at any point when the tentative release date is the same as that date at which the prisoner will have served 85 percent of the sentence imposed. State prisoners sentenced to life imprisonment shall be incarcerated for the rest of their natural lives, unless granted pardon or clemency.

(d) Notwithstanding ~~subparagraphs (b)1. and 2. paragraph (b) and subparagraph (c)1.~~, the education program manager shall recommend, and the Department of Corrections may grant, a one-time award of 60



additional days of incentive gain-time to an inmate who is otherwise eligible and who successfully completes requirements for and is awarded a general educational development certificate or vocational certificate. Under no circumstances may an inmate receive more than 60 days for educational attainment pursuant to this section.

Section 13. This act shall take effect July 1, 1996, and shall apply to sentencing for offenses committed on or after that date.

And the title is amended as follows:

On page 1, delete the entire title and insert: A bill to be entitled An act relating to sentencing; amending s. 775.084, F.S.; clarifying procedures for sentencing a defendant as a habitual felony offender, a habitual violent felony offender, or a violent career criminal; clarifying when a habitual felony offender, a habitual violent felony offender, or a violent career criminal is subject to imprisonment; clarifying terms of imprisonment; providing that a defendant sentenced as a violent career criminal is not eligible for any form of discretionary release, except pardon, executive clemency, or conditional medical release; amending s. 775.0842, F.S.; correcting a grammatical error; amending s. 921.0011, F.S.; clarifying the definition of the term "victim injury" for purposes of sentencing; amending ss. 921.0012 and 921.0013, F.S.; clarifying the purpose of numerical statutory references, felony degree designations, and descriptive language in the offense severity ranking chart; correcting statutory references; ranking s. 812.16(2), F.S., relating to chop shops, in level 5 of the offense severity ranking chart; amending s. 921.0014, F.S.; clarifying requirements for assessing points under the sentencing guidelines for a violation of community sanctions and a prior capital felony; revising requirements for assessing points under the sentencing guidelines for a prior serious felony; amending s. 893.135, F.S.; lowering the amount of cannabis necessary to constitute the offense of trafficking in cannabis; providing eligibility for pardon or executive clemency for a defendant convicted of certain drug trafficking offenses; revising the elements of the offense of trafficking in cocaine or illegal drugs to delete the necessity of a determination that the defendant had a highly culpable mental state in committing the offense; amending s. 775.087, F.S.; providing that a defendant convicted of a felony that involved the use of a weapon or firearm is not eligible for any form of discretionary early release, except pardon, executive clemency, or conditional medical release, or gain-time prior to serving the minimum sentence; amending s. 775.0875, F.S.; correcting a cross reference; amending s. 784.07, F.S.; providing that a defendant convicted of committing a battery against a law enforcement officer or other specified officer while possessing a firearm or semiautomatic firearm is not eligible for any form of discretionary early release, except pardon, executive clemency, or conditional medical release, or gain-time prior to serving the minimum sentence; correcting a cross reference; amending s. 921.187, F.S.; correcting grammar; amending s. 944.275, F.S.; clarifying provisions under which an inmate may be granted gain-time; clarifying the calculation of 85% of sentence imposed; providing an effective date.

Senators Burt and Jenne offered the following amendment which was moved by Senator Burt and adopted:

**Senate Amendment 1 (with title amendment) to House Amendment 1**—On page 1, line 18 through page 44, line 13, delete those lines and insert:

Section 1. Paragraph (a) of subsection (1) of section 16.56, Florida Statutes, is amended to read:

#### 16.56 Office of Statewide Prosecution.—

(1) There is created in the Department of Legal Affairs an Office of Statewide Prosecution. The office shall be a separate "budget entity" as that term is defined in chapter 216. The office may:

(a) Investigate and prosecute the offenses of:

1. Bribery, burglary, criminal usury, extortion, gambling, kidnapping, larceny, murder, prostitution, perjury, robbery, carjacking, and home-invasion robbery;

2. Any crime involving narcotic or other dangerous drugs;

3. Any violation of the provisions of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act, including any offense listed in the definition of racketeering activity in s. 895.02(1)(a), providing

such listed offense is investigated in connection with a violation of s. 895.03 and is charged in a separate count of an information or indictment containing a count charging a violation of s. 895.03, the prosecution of which listed offense may continue independently if the prosecution of the violation of s. 895.03 is terminated for any reason;

4. Any violation of the provisions of the Florida Anti-Fencing Act;

5. Any violation of the provisions of the Florida Antitrust Act of 1980, as amended; or

6. Any crime involving, or resulting in, fraud or deceit upon any person; or

7. Any violation of s. 847.0135, relating to computer pornography and child-exploitation prevention, or any offense related to a violation of s. 847.0135,

or any attempt, solicitation, or conspiracy to commit any of the crimes specifically enumerated above. The office shall have such power only when any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction, or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits.

Section 2. Paragraph (d) of subsection (2) of section 27.52, Florida Statutes, is amended to read:

#### 27.52 Determination of indigency.—

(2)

(d) A nonindigent parent or legal guardian of a dependent person under the age of 18 years shall furnish such person with the necessary legal services and costs incident to a delinquency proceeding or, upon transfer of such person for criminal prosecution as an adult pursuant to s. 39.052, a criminal prosecution, in which the person has a right to legal counsel under the Constitution of the United States or the Constitution of the State of Florida. The failure of a parent or legal guardian to furnish legal services and costs under this section shall not bar the appointment of legal counsel pursuant to s. 27.53. When the public defender, a special assistant public defender appointed pursuant to s. 27.53(2), or appointed private legal counsel is appointed to represent a minor in any proceeding in circuit court or in a criminal proceeding in any other court, the parents or the legal guardian of the minor shall be liable for the legal services and costs incident to a criminal proceeding of such representation in an amount to be determined by the court not to exceed \$1,250. Liability for the costs of such representation may be imposed in the form of a lien against the property of the parents or the legal guardian of the minor, which lien shall be enforceable as provided in s. 27.56 or s. 27.561. The court shall determine the amount of the obligation; and, in determining the amount of the obligation, the court shall follow the procedure outlined by this section.

Section 3. Section 27.7001, Florida Statutes, is amended to read:

27.7001 Legislative intent.—It is the intent of the Legislature to create part IV of this chapter, consisting of ss. 27.7001-27.708, inclusive, to provide for the collateral representation of any person convicted and sentenced to death in this state who is unable to secure counsel due to indigency, so that collateral legal proceedings to challenge any Florida capital such conviction and sentence may be commenced in a timely manner and so as to assure the people of this state that the judgments of its courts may be regarded with the finality to which they are entitled in the interests of justice. It is the further intent of the Legislature that collateral representation shall not include representation during retrials, resentencings, proceedings commenced under chapter 940, or civil litigation.

Section 4. Section 27.702, Florida Statutes, is amended to read:

#### 27.702 Duties of the capital collateral representative.—

(1) The capital collateral representative shall represent, without additional compensation, each any person convicted and sentenced to death in this state who is without counsel and who is unable to secure counsel due to indigency or determined by a state court of competent jurisdiction to be indigent for the purpose of instituting and prosecuting collateral actions challenging the legality of the judgment and sentence

imposed against such person in the state courts, federal courts in this state, the United States Court of Appeals for the Eleventh Circuit, and the United States Supreme Court. ~~A determination of indigency by any trial court of this state for purposes of representation by the public defender shall be prima facie evidence of indigency for purposes of representation by the capital collateral representative.~~ Representation by the capital collateral representative shall commence *automatically* upon termination of direct appellate proceedings in state or federal courts, ~~notice of which shall be effected as provided by s. 27.51. Within 91 days after the date the Supreme Court issues a mandate on a direct appeal or the United States Supreme Court denies a petition for certiorari, whichever is later, the capital collateral representative shall file a notice of appearance in the trial court in which the judgment and sentence were entered and shall secure all direct appeal files for collateral representation.~~ Upon receipt of files from the public defender or other counsel, the capital collateral representative shall assign each such case to personnel in his or her office for investigation, client contact, and such further action as the circumstances may warrant.

(2) *The capital collateral representative shall represent each person convicted and sentenced to death in this state in collateral postconviction proceedings, unless a court appoints or permits other counsel to appear as counsel of record.*

(3)(2) The capital collateral representative shall file motions seeking compensation for representation and reimbursement for expenses pursuant to 18 U.S.C. s. 3006A when providing representation to indigent persons in the federal courts, and shall deposit all such payments received into the Capital Collateral Trust Fund, ~~which is hereby established for such purpose.~~

Section 5. Section 27.703, Florida Statutes, is amended to read:

27.703 Conflict of interest and substitute counsel.—If at any time during the representation of two or more indigent persons, the capital collateral representative ~~determines~~ *determines* that the interests of those persons are so adverse or hostile that they cannot all be counseled by the capital collateral representative or his or her staff without conflict of interest, the sentencing court shall upon application therefor by the capital collateral representative appoint one or more members of The Florida Bar to represent one or more of such persons. Appointed counsel shall be paid from ~~funds~~ *dollars* appropriated to the ~~Justice Administrative Commission Office of the Capital Collateral Representative.~~

Section 6. Subsection (6) of section 39.048, Florida Statutes, is amended to read:

39.048 Petition.—

(6)(a) If a petition has been filed alleging that a child has committed a delinquent act or violation of law, ~~and no demand for speedy trial has been made pursuant to paragraph (d),~~ the adjudicatory hearing on the petition must be commenced within 90 days after the earlier of:

1. The date the child is taken into custody; or
2. The date the petition is filed.

(b) A child shall be deemed to have been brought to trial if the adjudicatory hearing begins before the judge within the time provided. If the adjudicatory hearing is not commenced within 90 days or an extension thereof as ~~hereinafter~~ *hereinafter* provided in paragraph (c), ~~the child shall be released from all conditions of detention care until the adjudicatory hearing is completed the petition shall be dismissed with prejudice.~~

(c) The court may extend the period of time prescribed in paragraph (a) on motion of any party, after hearing, on a finding of cause or that the interest of the child will be served by such extension. The order extending such period ~~must~~ *shall* state the reasons therefor. The general congestion of the court's docket, lack of diligent preparation, failure to obtain available witnesses, or other avoidable or foreseeable delays are not sufficient cause for such extension.

Section 7. Paragraph (a) of subsection (3) of section 39.052, Florida Statutes, is amended, and paragraph (d) is added to that subsection, to read:

39.052 Hearings.—

(3) TRANSFER OF A CHILD FOR PROSECUTION AS AN ADULT.—

(a)1. The court shall transfer and certify a child's criminal case for trial as an adult if the child is alleged to have committed a violation of law and, prior to the commencement of an adjudicatory hearing, the child, joined by a parent or, in the absence of a parent, by the guardian or guardian ad litem, demands in writing to be tried as an adult. Once a child has been transferred for criminal prosecution pursuant to a voluntary waiver hearing and has been found to have committed the presenting offense or a lesser included offense, the child shall be handled thereafter in every respect as an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 39.059(4)(b) or (c).

2.a. The state attorney may file a motion requesting the court to transfer the child for criminal prosecution if the child was 14 years of age or older at the time the alleged delinquent act or violation of law was committed. If the child has been previously adjudicated delinquent for murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, or aggravated assault, and is currently charged with a second or subsequent violent crime against a person, the state attorney shall file a motion requesting the court to transfer and certify the juvenile for prosecution as an adult, or proceed pursuant to subparagraph 5.

b. If the child was 14 years of age or older at the time of commission of a fourth or subsequent alleged felony offense and the child was previously adjudicated delinquent or had adjudication withheld for or was found to have committed, or to have attempted or conspired to commit, three offenses that are felony offenses if committed by an adult, and one or more of such felony offenses involved the use or possession of a firearm or violence against a person, the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such request, or proceed pursuant to subparagraph 5. Upon the state attorney's request, the court shall either enter an order transferring the case and certifying the case for trial as if the child were an adult or provide written reasons for not issuing such an order.

3. If the court finds, after a waiver hearing under subsection (2), that a juvenile who was 14 years of age or older at the time the alleged violation of state law was committed should be charged and tried as an adult, the court shall enter an order transferring the case and certifying the case for trial as if the child were an adult. The child shall thereafter be subject to prosecution, trial, and sentencing as if the child were an adult but subject to the provisions of s. 39.059(7). Once a child has been transferred for criminal prosecution pursuant to an involuntary waiver hearing and has been found to have committed the presenting offense or a lesser included offense, the child shall thereafter be handled in every respect as an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 39.059(4)(b) or (c).

4.a. A child of any age who is charged with a violation of state law punishable by death or by life imprisonment is subject to the jurisdiction of the court as set forth in s. 39.049(7) unless and until an indictment on the charge is returned by the grand jury. When such indictment is returned, the petition for delinquency, if any, must be dismissed and the child must be tried and handled in every respect as an adult:

(I) On the offense punishable by death or by life imprisonment; and

(II) On all other felonies or misdemeanors charged in the indictment which are based on the same act or transaction as the offense punishable by death or by life imprisonment or on one or more acts or transactions connected with the offense punishable by death or by life imprisonment.

b. An adjudicatory hearing may not be held until 21 days after the child is taken into custody and charged with having committed an offense punishable by death or by life imprisonment, unless the state attorney advises the court in writing that he or she does not intend to present the case to the grand jury, or has presented the case to the grand jury and the grand jury has not returned an indictment. If the court receives such a notice from the state attorney, or if the grand jury fails to act within the 21-day period, the court may proceed as otherwise authorized under this part.

c. If the child is found to have committed the offense punishable by death or by life imprisonment, the child shall be sentenced as an adult.

If the juvenile is not found to have committed the indictable offense but is found to have committed a lesser included offense or any other offense for which he or she was indicted as a part of the criminal episode, the court may sentence as follows:

(I) Pursuant to s. 39.059;

(II) Pursuant to chapter 958, notwithstanding any other provisions of that chapter to the contrary; or

(III) As an adult, pursuant to s. 39.059(7)(c).

d. Once a child has been indicted pursuant to this subsection and has been found to have committed any offense for which he or she was indicted as a part of the criminal episode, the child shall be handled thereafter in every respect as if an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 39.059.

5.a. Effective January 1, 1995, with respect to any child who was 14 or 15 years of age at the time the alleged offense was committed, the state attorney may file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed and when the offense charged is:

- (I) Arson;
- (II) Sexual battery;
- (III) Robbery;
- (IV) Kidnapping;
- (V) Aggravated child abuse;
- (VI) Aggravated assault;
- (VII) Aggravated stalking;
- (VIII) Murder;
- (IX) Manslaughter;
- (X) Unlawful throwing, placing, or discharging of a destructive device or bomb;
- (XI) Armed burglary in violation of s. 810.02(2)(b);
- (XII) Aggravated battery;
- (XIII) Lewd or lascivious assault or act in the presence of a child;  
or
- (XIV) Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony;  
or;

b. With respect to any child who was 16 or 17 years of age at the time the alleged offense was committed, the state attorney:

(I) May file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed. However, the state attorney may not file an information on a child charged with a misdemeanor, unless the child has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which involved an offense classified as a felony under state law.

(II) Shall file an information if the child has been previously adjudicated delinquent for murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, or aggravated assault, and is currently charged with a second or subsequent violent crime against a person.

c. Effective January 1, 1995, notwithstanding subparagraphs 1. and 2., regardless of the child's age at the time the alleged offense was committed, the state attorney must file an information with respect to any child who previously has been adjudicated for offenses which, if committed by an adult, would be felonies and such adjudications occurred at three or more separate delinquency adjudicatory hearings, and three of which resulted in residential commitments as defined in s. 39.01(59).

d. Once a child has been transferred for criminal prosecution pursuant to information and has been found to have committed the presenting offense or a lesser included offense, the child shall be handled thereafter in every respect as if an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 39.059(6).

e. Each state attorney shall develop and annually update written policies and guidelines to govern determinations for filing an informa-

tion on a juvenile, to be submitted to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Juvenile Justice Advisory Board not later than January 1 of each year.

(d) *Notwithstanding any provision of this section or any other law to the contrary, if a child is transferred for criminal prosecution pursuant to this section, the nonindigent parent or legal guardian of the child shall be subject to liability for necessary legal fees and costs incident to the criminal prosecution of the child as an adult as provided in s. 27.52(2)(d).*

Section 8. Section 90.4025, Florida Statutes, is created to read:

90.4025 Admissibility of paternity determination in certain criminal prosecutions.—If a person less than 18 years of age gives birth to a child and the paternity of that child is established under chapter 742, such evidence of paternity is admissible in a criminal prosecution under s. 794.011, s. 794.05, s. 800.04, and s. 827.04(4).

Section 9. Subsection (9) of section 119.07, Florida Statutes, is amended to read:

119.07 Inspection, examination, and duplication of records; exemptions.—

(9) The provisions of this section are not intended to expand or limit the provisions of Rule 3.220, Florida Rules of Criminal Procedure, regarding the right and extent of discovery by the state or by a defendant in a criminal prosecution or in collateral postconviction proceedings. *This section may not be used by any inmate as the basis for failing to timely litigate any postconviction action.*

Section 10. Subsection (3) of section 316.193, Florida Statutes, is amended to read:

316.193 Driving under the influence; penalties.—

(3) Any person:

- (a) Who is in violation of subsection (1);
- (b) Who operates a vehicle; and
- (c) Who, by reason of such operation, causes:

1. Damage to the property or person of another is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Serious bodily injury to another, as defined in s. 316.1933, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. The death of any human being is guilty of DUI manslaughter, and commits:

a. A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

(I) *At the time of the accident, the person knew, or should have known, that the accident occurred; and*

(II) *The person failed to give information and render aid as required by s. 316.062.*

*This sub-subparagraph does not require that the person knew that the accident resulted in injury or death.*

Section 11. Section 327.351, Florida Statutes, is amended to read:

327.351 Operation of a vessel while intoxicated; punishment.—

(1) It is unlawful for any person, while in an intoxicated condition or under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893 to the extent that the person's normal faculties are impaired, to operate on the waters of this state any vessel. A violation of this section is punishable

as provided in s. 327.35. For the purposes of this subsection, a previous conviction under s. 327.35 constitutes a previous conviction for violation of this subsection.

(2) If, however, damage to the property or person of another, other than damage resulting in serious bodily injury or in the death of any person, is done by such intoxicated person under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893 to the extent that the person's normal faculties are impaired, by reason of the operation of any vessel, such person is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, but the penalty imposed for a violation of this subsection must be not less than the penalty provided under s. 327.35; if serious bodily injury to another, as defined in s. 316.1933, is caused by the operation of a vessel by any person while so intoxicated, such person is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084; and, if the death of any human being is caused by the operation of a vessel by any person while so intoxicated, such person is guilty of manslaughter, punishable as provided by law for manslaughter under s. 782.07(1) or (2).

(3) A conviction under this section is not a bar to any civil suit for damages against the person so convicted.

Section 12. Subsection (1) of section 382.014, Florida Statutes, is amended to read:

382.014 Birth certificates; contents; form; disclosure.—

(1) The original certificate of birth shall contain all of the information required by the department for legal, social, and health research purposes. However, all information concerning parentage, marital status, and medical details shall be confidential and exempt from the provisions of s. 119.07(1), except for health research purposes and law enforcement agencies for the purpose of facilitating the prosecution of offenses under s. 794.011, s. 794.05, s. 800.04, and s. 827.04(4) as approved by the department, nor shall copies of the same be issued except as provided in s. 382.025(2). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. In the case of an adoptive child, if of legal age, access to the original certificate of birth shall be governed by s. 63.162.

Section 13. Subsection (2) of section 382.025, Florida Statutes, is amended to read:

382.025 Certified copies of vital records, birth records, and other records; copies as evidence; searches of records; fees; disposition of fees.—

(2) Certified copies of the original birth certificate and computer certifications and birth cards in such form as the department may designate or any new or amendatory certificate, or affidavits thereof, are confidential and exempt from the provisions of s. 119.07(1) and shall be issued only as authorized by the department and only to the registrant, if of legal age; his or her parent or guardian or other legal representative; a law enforcement agency for the purpose of facilitating the prosecution of offenses under s. 794.011, s. 794.05, s. 800.04 and s. 827.04(4); or any agency of the state or the United States for official purposes upon approval of the department or upon order of any court of competent jurisdiction. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 14. In order to facilitate the prosecution of offenses under s. 794.011, s. 794.05, s. 800.04 or s. 827.04(4), the Office of Vital Statistics of the Department of Health and Rehabilitative Services, the Department of Revenue, and the Florida Prosecuting Attorneys Association shall develop a protocol for sharing birth certificate information for all children born to unmarried mothers who are less than 17 years of age at the time of the child's birth.

Section 15. Subsection (1) and paragraph (a) of subsection (2) of section 415.504, Florida Statutes, are amended to read:

415.504 Mandatory reports of child abuse or neglect; mandatory reports of death; central abuse hotline.—

(1) Any person, including, but not limited to, any:

(a) Physician, osteopath, medical examiner, chiropractor, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons;

(b) Health or mental health professional other than one listed in paragraph (a);

(c) Practitioner who relies solely on spiritual means for healing;

(d) School teacher or other school official or personnel;

(e) Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker; or

(f) Law enforcement officer,

who knows, or has reasonable cause to suspect, that a child is an abused, abandoned, or neglected child shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(2)(a) Each report of known or suspected child abuse or neglect pursuant to this section, *except those solely under s. 827.04(4)*, shall be made immediately to the department's central abuse hotline on the single statewide toll-free telephone number, and, if the report is of an instance of known or suspected child abuse by a noncaretaker, the call shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse hotline. *If the report is of an instance of known or suspected child abuse involving impregnation of a child under 16 years of age by a person 21 years of age or older under s. 827.04(4), the call must be immediately electronically transferred to the county sheriff's office by the central abuse hotline, or the department must otherwise provide the sheriff's office with the report no later than 7 days after receipt of the report.*

Section 16. Joinder of offenses and defendants.—

(1) JOINDER OF OFFENSES.—Two or more offenses that are triable in the same court may be charged in the same indictment or information in a separate count for each offense, when the offenses, whether felonies or misdemeanors, of both, are of the same or similar character, or are based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

(2) JOINDER OF DEFENDANTS.—Two or more defendants may be charged in the same indictment or information on which they are to be tried if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses. The defendants may be charged in one or more counts together or separately, and all of the defendants need not be charged in each count.

Section 17. Consolidation of related offenses.—

(1) RELATED OFFENSES.—For purposes of sections 13 through 15 of this act, two or more offenses are related offenses if they are triable in the same court and are of the same or similar character, or are based on the same act or transaction, or two or more connected acts or transactions, or constitute parts of a common scheme or plan. The defendants may be charged in one or more counts together or separately, and all of the defendants need not be charged in each count.

(2) CONSOLIDATION OF INDICTMENTS OR INFORMATIONS.—Two or more indictments or informations charging related offenses must be consolidated for trial on a timely motion by a defendant or by the state attorney. The procedure thereafter must be the same as if the prosecution were under a single indictment or information. Failure to timely move for consolidation constitutes a waiver of the right to consolidation.

(3) DISMISSAL OF RELATED OFFENSES AFTER TRIAL.—When a defendant has been tried on a charge of one of two or more related offenses, the charge of every other related offense must be dismissed on the defendant's motion unless a motion by the defendant for consolidation of the charges has been previously denied, the defendant has waived the right to consolidation, or the state attorney is unable, by due diligence, to obtain sufficient evidence to warrant charging the other offense or offenses.

(4) PLEA.—A defendant may plead guilty or nolo contendere to a charge of one offense on the condition that other charges of related offenses be dismissed or that no charges of other related offenses be instituted. If the court finds that the condition cannot be fulfilled, the plea is considered withdrawn.

## Section 18. Severance of offenses and defendants.—

## (1) SEVERANCE OF OFFENSES.—

(a) If two or more offenses are improperly charged in a single indictment or information, the defendant has a right to a severance of the charges on a timely motion.

(b) If two or more charges of related offenses are joined in a single indictment or information, the court nevertheless shall grant a severance of charges on motion of the state attorney or defendant:

1. Before trial, upon a showing that the severance is appropriate to promote a fair determination of the defendant's guilt or innocence as to each offense; or

2. During trial, only with the defendant's consent, upon a showing that the severance is necessary to achieve a fair determination of the defendant's guilt or innocence as to each offense.

## (2) SEVERANCE OF DEFENDANTS.—

(a) Upon the motion of the state attorney or defendant, the court shall order a severance of defendants and separate trials:

1. Before trial, upon a showing that the order is necessary to protect a defendant's right to a speedy trial or is appropriate to promote a fair determination of the guilt or innocence of one or more defendants; or

2. During trial, with the defendant's consent only and upon a showing that the order is necessary to achieve a fair determination of the guilt or innocence of one or more defendants.

(b) If a defendant moves for a severance of defendants on the ground that an oral or written statement of a codefendant makes reference to him but is not admissible against him, the court shall determine whether the state attorney will offer evidence of the statement at the trial. If the state attorney intends to offer the statement in evidence, the court shall order the state attorney to submit its evidence of the statement for consideration by the court and counsel for defendants and, if the court determines that the statement is not admissible against the moving defendant, it shall require the state attorney to elect:

1. A joint trial at which evidence of the statement may not be admitted;

2. A joint trial at which evidence of the statement is admissible after all references to the moving defendant have been deleted, if the court determines that admission of the evidence with deletions will not prejudice the moving defendant; or

3. Severance of the moving defendant.

(c) In cases in which, at the close of the state attorney's case or at the close of all of the evidence, the evidence is not sufficient to support a finding that allegations on which the joinder of a defendant is based have been proved, the court shall, on motion of that defendant, grant a severance unless the court finds that severance is unnecessary to achieve a fair determination of that defendant's guilt or innocence.

Section 19. Subsection (4) of section 775.021, Florida Statutes, is amended to read:

## 775.021 Rules of construction.—

(4)(a) Whoever, in the course of one criminal transaction or episode, commits an act or acts that ~~which~~ constitute one or more separate criminal offenses ~~shall~~, upon conviction and adjudication of guilt, ~~shall~~ be sentenced separately for each criminal offense; and the sentencing judge may order the sentences to be served concurrently or consecutively. ~~The trial court may impose consecutive sentences notwithstanding that the sentences are imposed under s. 775.084(4)(a) and (b) and may order that any statutory mandatory minimum terms of incarceration or other statutes limiting release on parole or otherwise under s. 775.084(4)(b), s. 775.087(2)(a), or any other statute providing for similar mandatory minimum punishments also be imposed consecutively.~~ For the purposes of this subsection, offenses are separate if each offense requires proof of an element that the other does not, without regard to the accusatory pleading or the proof adduced at trial.

(b) The intent of the Legislature is to convict and sentence for each criminal offense committed in the course of one criminal episode or transaction and not to allow the principle of lenity as set forth in subsection (1) to determine legislative intent. Exceptions to this rule of construction are:

1. Offenses that ~~which~~ require identical elements of proof.

2. Offenses that ~~which~~ are necessary lesser degrees of the same offense, as provided by statute.

3. Offenses that ~~which~~ are necessary lesser included offenses, the statutory elements of which are subsumed by the greater offense.

*As used in this paragraph, the term "necessary lesser included offense" means an offense that is proven as a matter of law in the course of proving the higher offense, except for the element that serves to distinguish the offenses.*

Section 20. For the purpose of incorporating the amendment to section 775.021, Florida Statutes, in references thereto, subsection (3) of section 790.1615, Florida Statutes, and subsection (3) of section 806.031, Florida Statutes, are reenacted to read:

790.1615 Unlawful throwing, projecting, placing, or discharging of destructive device or bomb that results in injury to another; penalty.—

(3) Upon conviction and adjudication of guilt, a person may be sentenced separately, pursuant to s. 775.021(4), for any violation of this section and for any unlawful throwing, projecting, placing, or discharging of a destructive device or bomb committed during the same criminal episode. A conviction for any unlawful throwing, projecting, placing, or discharging of a destructive device or bomb, however, is not necessary for a conviction under this section.

806.031 Arson resulting in injury to another; penalty.—

(3) Upon conviction and adjudication of guilt, a person may be sentenced separately, pursuant to s. 775.021(4), for any violation of this section and for any arson committed during the same criminal episode. A conviction for any arson, however, is not necessary for a conviction under this section.

Section 21. Subsections (1), (2), (3), (4), and (6) of section 775.084, Florida Statutes, are amended to read:

775.084 Violent career criminals; habitual felony offenders and habitual violent felony offenders; definitions; procedure; enhanced penalties.—

(1) As used in this act:

(a) "Habitual felony offender" means a defendant for whom the court may impose an extended term of imprisonment, as provided in paragraph (4)(a), if it finds that:

1. The defendant has previously been convicted of any combination of two or more felonies in this state or other qualified offenses;

2. The felony for which the defendant is to be sentenced was committed:

a. Within 5 years ~~after of~~ the date of the conviction of the defendant's last prior felony or other qualified offense; ~~or~~

b. Within 5 years ~~after the date of completion of the defendant's release, on parole or otherwise, from a prison sentence, any type of community supervision, release supervision, or other supervision or other commitment imposed as a result of a prior conviction for a felony or other qualified offense, whichever is later; or~~

c. While the defendant is in custody or under supervision because of a sentence, any type of community supervision, release supervision, or other supervision or commitment imposed as a result of a prior conviction for a felony or other qualified offense;

3. The felony for which the defendant is to be sentenced, and one of the two prior felony convictions, is not a violation of s. 893.13 relating to the purchase or the possession of a controlled substance;

4. The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this paragraph; and

5. A conviction of a felony or other qualified offense necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(b) "Habitual violent felony offender" means a defendant for whom the court may impose an extended term of imprisonment, as provided in paragraph (4)(b), if it finds that:

1. The defendant has previously been convicted of a felony or an attempt or conspiracy to commit a felony and one or more of such convictions was for:

- a. Arson;
- b. Sexual battery;
- c. Robbery;
- d. Kidnapping;
- e. Aggravated child abuse;
- f. Aggravated assault;
- g. Murder;
- h. Manslaughter;
- i. Unlawful throwing, placing, or discharging of a destructive device or bomb;
- j. Armed burglary;
- k. Aggravated battery; or
- l. Aggravated stalking;

2. The felony for which the defendant is to be sentenced was committed:

a. Within 5 years ~~after~~ of the date of the conviction of the last prior enumerated felony; ~~or~~

b. Within 5 years *after the date of completion of the defendant's release, on parole or otherwise, from a prison sentence, any type of community supervision, release supervision, or other supervision or commitment imposed as a result of a prior conviction for an enumerated felony, whichever is later; or*

c. *While the defendant is in custody or under supervision because of a sentence, any type of community supervision, release supervision, or other supervision or commitment imposed as a result of a prior conviction for an enumerated felony;*

3. The defendant has not received a pardon on the ground of innocence for any crime that is necessary for the operation of this paragraph; and

4. A conviction of a crime necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(c) "Violent career criminal" means a defendant for whom the court must impose imprisonment pursuant to paragraph (4)(c), if it finds that:

1. The defendant has previously been convicted as an adult three or more times for an offense in this state or other qualified offense that is:

- a. Any forcible felony, as described in s. 776.08;
- b. Aggravated stalking, as described in s. 784.048(3) and (4);
- c. Aggravated child abuse, as described in s. 827.03;
- d. Lewd, lascivious, or indecent conduct, as described in s. 800.04;
- e. Escape, as described in s. 944.40; or

f. A felony violation of chapter 790 involving the use or possession of a firearm.

2. The defendant has been incarcerated in a state prison or a federal prison.

3. The primary felony offense for which the defendant is to be sentenced is a felony enumerated in subparagraph 1. and was committed on or after October 1, 1995, and:

a. Within 5 years after the conviction of the last prior enumerated felony; ~~or~~

b. Within 5 years *after the date of completion of the defendant's release, on parole or otherwise, from a prison sentence, any type of community supervision, release supervision, or other supervision or commitment imposed as a result of a prior conviction for an enumerated felony; or, whichever is later.*

c. *While the defendant is in custody or under supervision because of a sentence, any type of community supervision, or other supervision or commitment imposed as a result of a prior conviction for an enumerated felony.*

4. The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this paragraph.

5. A conviction of a felony or other qualified offense necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(d) "Qualified offense" means any offense, substantially similar in elements and penalties to an offense in this state, which is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction, that was punishable under the law of such jurisdiction at the time of its commission by the defendant by death or imprisonment exceeding 1 year.

(2) For the purposes of this section, the placing of a person on probation without an adjudication of guilt shall be treated as a prior conviction if the subsequent offense for which *the person* he is to be sentenced was committed during such probationary period.

(3)(a) In a separate proceeding, the court shall determine if the defendant is a habitual felony offender or a habitual violent felony offender. The procedure shall be as follows:

1. The court shall obtain and consider a presentence investigation prior to the imposition of a sentence as a habitual felony offender or a habitual violent felony offender.

2. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

3. Except as provided in subparagraph 1., all evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

4. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable to the extent normally applicable to similar findings.

5. For the purpose of identification of a habitual felony offender or a habitual violent felony offender, the court shall fingerprint the defendant pursuant to s. 921.241.

6. For an offense committed on or after October 1, 1995, *if the state attorney pursues a habitual felony offender sanction or a habitual violent felony offender sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the a defendant as who meets the criteria for a habitual felony offender or a habitual violent felony offender, subject to imprisonment pursuant to this section paragraph (4)(a) or paragraph (4)(b) unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the*



protection of the public to sentence ~~the~~ a defendant ~~who meets the criteria for sentencing as a habitual felony offender or a habitual violent felony offender to imprisonment pursuant to paragraph (4)(a) or paragraph (4)(b),~~ the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. ~~Each month, the court shall submit monthly reports to the Sentencing Commission regarding habitual felony offender or habitual violent felony offender sentencing under this section, and the reports shall include the written reasons or transcripts in each case in which the court determines not to impose a habitual felony offender sanction or a habitual violent felony offender sanction such sentence.~~

(b) In a separate proceeding, the court shall determine ~~whether if the~~ defendant is a violent career criminal; with respect to a primary offense committed on or after October 1, 1995. The procedure shall be as follows:

1. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

2. All evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

3. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable only as provided in paragraph (c).

4. For the purpose of identification, the court shall fingerprint the defendant pursuant to s. 921.241.

5. For an offense committed on or after October 1, 1995, ~~if the state attorney pursues a violent career criminal sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the a defendant as who meets the criteria for a violent career criminal, subject to imprisonment pursuant to this section paragraph (4)(e) unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence the a defendant who meets the criteria for sentencing as a violent career criminal to imprisonment pursuant to paragraph (4)(e), the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. Each month, the court shall submit monthly reports to the Sentencing Commission regarding violent career criminal sentencing under this section, and the reports shall include the written reasons or transcripts in each case in which the court determines not to impose a violent career criminal sanction such sentence.~~

(c)1. A person sentenced under paragraph (4)(c) as a violent career criminal has the right of direct appeal, and either the state or the defendant may petition the trial court to vacate an illegal sentence at any time. However, the determination of the trial court to impose or not to impose a violent career criminal sentence is presumed appropriate and no petition or motion for collateral or other postconviction relief may be considered based on an allegation either by the state or the defendant that such sentence is inappropriate, inadequate, or excessive.

2. It is the intent of the Legislature that, with respect to both direct appeal and collateral review of violent career criminal sentences, all claims of error or illegality be raised at the first opportunity and that no claim should be filed more than 2 years after the judgment and sentence became final, unless it is established that the basis for the claim could not have been ascertained at the time by the exercise of due diligence. Technical violations and mistakes at trials and sentencing proceedings involving violent career criminals that do not affect due process or fundamental fairness are not appealable by either the state or the defendant.

3. It is the intent of the Legislature that no funds, resources, or employees of the state or its political subdivisions be used, directly or indirectly, in appellate or collateral proceedings based on violent career criminal sentencing, except when such use is constitutionally or statutorily mandated.

(4)(a) The court, in conformity with the procedure established in paragraph (3)(a), ~~may shall~~ sentence the habitual felony offender as follows:

1. In the case of a life felony or a felony of the first degree, for life.

2. In the case of a felony of the second degree, for a term of years not exceeding 30.

3. In the case of a felony of the third degree, for a term of years not exceeding 10.

(b) The court, in conformity with the procedure established in paragraph (3)(a), may sentence the habitual violent felony offender as follows:

1. In the case of a life felony or a felony of the first degree, for life, and such offender shall not be eligible for release for 15 years.

2. In the case of a felony of the second degree, for a term of years not exceeding 30, and such offender shall not be eligible for release for 10 years.

3. In the case of a felony of the third degree, for a term of years not exceeding 10, and such offender shall not be eligible for release for 5 years.

(c) The court, in conformity with the procedure established in paragraph (3)(b), shall sentence the violent career criminal as follows:

1. In the case of a life felony or a felony of the first degree, for life.

2. In the case of a felony of the second degree, for a term of years not exceeding 40, with a mandatory minimum term of 30 years' imprisonment.

3. In the case of a felony of the third degree, for a term of years not exceeding 15, with a mandatory minimum term of 10 years' imprisonment.

~~An offender sentenced under this paragraph is not eligible for any form of discretionary early release except conditional medical release under s. 947.149.~~

(d) If the court finds, pursuant to ~~paragraph subparagraph~~ (3)(a)6- or ~~paragraph subparagraph~~ (3)(b)5-, that it is not necessary for the protection of the public to sentence a defendant who meets the criteria for sentencing as a habitual felony offender, a habitual violent felony offender, or a violent career criminal, with respect to an offense committed on or after October 1, 1995, sentence shall be imposed without regard to this section.

(e) At any time when it appears to the court that the defendant is eligible for sentencing under this section, the court shall make that determination as provided in paragraph (3)(a) or paragraph (3)(b).

(f) A sentence imposed under this section shall not be increased after such imposition.

(g) A sentence imposed under this section is not subject to s. 921.001.

(h) The provisions of this section do not apply to capital felonies, and a sentence authorized under this section does not preclude the imposition of the death penalty for a capital felony.

(i) The provisions of s. 947.1405 shall apply to persons sentenced as habitual felony offenders and persons sentenced as habitual violent felony offenders.

(j)1. A defendant sentenced under this section as a habitual felony offender, ~~or a habitual violent felony offender, or a violent career criminal is not eligible for gain-time granted by the Department of Corrections, except that the department may grant up to 35 days of incentive gain-time each month as provided in s. 944.275(4).~~

2. For an offense committed on or after October 1, 1995, a defendant sentenced under this section as a violent career criminal is not eligible for ~~any form of gain-time granted by the Department of Corrections, except the department may grant up to 5 days of incentive gain-time each month as provided in s. 944.275(4)(b)3. An inmate is not eligible to~~

~~earn any type of gain time that would cause the inmate's sentence to expire, end, or terminate, or that would result in the inmate's release, prior to serving a minimum of 85 percent of the court-imposed sentence. The department shall not grant further gain time awards to an inmate whose tentative release date is the same as the date at which the inmate will have served 85 percent of the court-imposed sentence. discretionary early release, other than pardon or executive clemency, or conditional medical release granted pursuant to s. 947.149, is expressly prohibited.~~

(6) The purpose of this section is to provide uniform punishment for those crimes made punishable under this section, and to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

Section 22. For the purpose of incorporating the amendment to section 775.084, Florida Statutes, in references thereto, subsections (1) and (2) of section 790.235, Florida Statutes, are reenacted to read:

790.235 Possession of firearm by violent career criminal unlawful; penalty.—

(1) Any person who meets the violent career criminal criteria under s. 775.084(1)(c), regardless of whether such person is or has previously been sentenced as a violent career criminal, who owns or has in his or her care, custody, possession, or control any firearm or electric weapon or device, or carries a concealed weapon, including a tear gas gun or chemical weapon or device, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person convicted of a violation of this section shall be sentenced to a mandatory minimum of 15 years' imprisonment; however, if the person would be sentenced to a longer term of imprisonment under s. 775.084(4)(c), the person must be sentenced under that provision. A person convicted of a violation of this section is not eligible for any form of discretionary early release, other than pardon, executive clemency, or conditional medical release under s. 947.149.

(2) For purposes of this section, the previous felony convictions necessary to meet the violent career criminal criteria under s. 775.084(1)(c) may be convictions for felonies committed as an adult or adjudications of delinquency for felonies committed as a juvenile. In order to be counted as a prior felony for purposes of this section, the felony must have resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense, and sentenced or adjudicated separately from any other felony that is to be counted as a prior felony.

Section 23. Section 775.0842, Florida Statutes, is amended to read:

775.0842 Persons subject to career criminal prosecution efforts.—A person who is under arrest for the commission, attempted commission, or conspiracy to commit any felony in this state shall be the subject of career criminal prosecution efforts provided that such person qualifies as a habitual felony offender, ~~or~~ a habitual violent felony offender, or a violent career criminal, under s. 775.084.

Section 24. Subsections (2) and (3) of section 775.087, Florida Statutes, are amended to read:

775.087 Possession or use of weapon; aggravated battery; felony reclassification; minimum sentence.—

(2) Any person who is convicted of a felony or an attempt to commit a felony and the conviction was for:

- (a) Murder;
- (b) Sexual battery;
- (c) Robbery;
- (d) Burglary;
- (e) Arson;
- (f) Aggravated assault;
- (g) Aggravated battery;
- (h) Kidnapping;

- (i) Escape;
- (j) Aircraft piracy;
- (k) Aggravated child abuse;
- (l) Unlawful throwing, placing, or discharging of a destructive device or bomb;
- (m) Carjacking;
- (n) Home-invasion robbery; or
- (o) Aggravated stalking

and during the commission of the offense, such person possessed a "firearm," ~~as defined in s. 791.001(6), or "destructive device," as those terms are defined in s. 790.001(4), shall be sentenced to a minimum term of imprisonment of 3 years. Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, prior to serving the minimum sentence. An offender sentenced under this subsection is not eligible for control release under s. 947.146.~~

(3)(a) Any person who is convicted of a felony or an attempt to commit a felony and the conviction was for:

- 1. Murder;
- 2. Sexual battery;
- 3. Robbery;
- 4. Burglary;
- 5. Arson;
- 6. Aggravated assault;
- 7. Aggravated battery;
- 8. Kidnapping;
- 9. Escape;
- 10. Sale, manufacture, delivery, or intent to sell, manufacture, or deliver any controlled substance;
- 11. Aircraft piracy;
- 12. Aggravated child abuse;
- 13. Unlawful throwing, placing, or discharging of a destructive device or bomb;
- 14. Carjacking;
- 15. Home-invasion robbery; or
- 16. Aggravated stalking

and during the commission of the offense, such person possessed a semi-automatic firearm and its high-capacity detachable box magazine or a machine gun as defined in s. 790.001 ~~or s. 791.001(6), shall be sentenced to a minimum term of imprisonment of 8 years. Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, prior to serving the minimum sentence. An offender sentenced under this subsection is not eligible for control release under s. 947.146.~~

(b) As used in this subsection, the term:

1. "High-capacity detachable box magazine" means any detachable box magazine, for use in a semiautomatic firearm, which is capable of being loaded with more than 20 centerfire cartridges.

2. "Semiautomatic firearm" means a firearm which is capable of firing a series of rounds by separate successive depressions of the trigger and which uses the energy of discharge to perform a portion of the operating cycle.

Section 25. Section 775.0875, Florida Statutes, is amended to read:

775.0875 Unlawful taking, possession, or use of law enforcement officer's firearm; crime reclassification; penalties.—

(1) A person who, without authorization, takes a firearm from a law enforcement officer lawfully engaged in law enforcement duties commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) If a person violates subsection (1) and commits any other crime involving the firearm taken from the law enforcement officer, such crime shall be reclassified as follows:

(a)1. In the case of a felony of the first degree, to a life felony.

2. In the case of a felony of the second degree, to a felony of the first degree.

3. In the case of a felony of the third degree, to a felony of the second degree.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense ~~that which~~ is reclassified under this paragraph is ranked one level above the ranking under s. 921.0012 ~~or s. 921.0013~~ or s. 921.0013 of the felony offense committed.

(b) In the case of a misdemeanor, to a felony of the third degree. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such offense is ranked in level 2 of the offense severity ranking chart.

(3) A person who possesses a firearm ~~that he or she~~ ~~which he~~ knows was unlawfully taken from a law enforcement officer commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 26. Subsection (5) of section 775.13, Florida Statutes, is amended to read:

775.13 Registration of convicted felons, exemptions; penalties.—

(5) The provisions of this law do not apply to ~~an offender any person~~:

(a) Who has had his or her civil rights restored;

(b) Who has received a full pardon for the offense for which convicted;

(c) Whose conviction of a felony was more than 10 years prior to the time provided for registration under the provisions of this law and who has been lawfully released from incarceration under a felony conviction and sentence for more than 5 years prior to such time for registration, unless the offender ~~such person~~ is a fugitive from justice on a felony charge;

(d) Who is a parolee or probationer under the supervision of the Department of Corrections or is a probationer under the supervision of any county probation officer of the state or who has been lawfully discharged from such parole or probation; ~~or~~

(e) Who is a parolee or probationer under the supervision of the United States Parole Commission if the commission knows of and consents to the presence of the offender ~~such person~~ in Florida or is a probationer under the supervision of any federal probation officer in the state or who has been lawfully discharged from such parole or probation; ~~or~~

(f) Who is a sexual predator and has registered as required under s. 775.21.

Section 27. Section 775.21, Florida Statutes, is amended to read:

775.21 The Florida Sexual Predators Act; definitions; legislative findings, purpose, and intent; criteria; designation; registration; community and public notification; immunity; penalties.—

(1) **SHORT TITLE.**—~~This section Sections 775.21-775.23 may be cited as "The Florida Sexual Predators Act."~~

(2) **DEFINITIONS.**—*As used in this section, the term:*

(a) "Chief of police" means the chief law enforcement officer of a municipality.

(b) "Community" means any county where the sexual predator lives or otherwise establishes temporary or permanent residence.

(c) "Department" means the Department of Law Enforcement.

(d) "Entering the county" includes being discharged from a correctional facility or jail or secure treatment facility within the county or being under supervision within the county for the commission of a violation enumerated in subsection (4).

(e) "Temporary residence" means a stay of 2 or more weeks.

(3) **LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE INTENT.**—~~The Legislature finds that:~~

(a) Repeat sex offenders, sex offenders who use physical violence, and sex offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sex offenders are extremely likely to use physical violence and to repeat their offenses, and most sex offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sex offender victimization to society at large, while incalculable, clearly exorbitant.

(b) The high level of threat that a sexual predator ~~violent or repeat sex offender~~ presents to the public safety, and the long-term effects suffered by victims of that sex offenses ~~cause victims~~, provide the state with sufficient justification to design and implement innovative mechanisms as part of a strategy to achieve a significant reduction in the commission of violent and repeat sex offenses, a strategy that includes:

1. Incarcerating sexual predators and maintaining adequate facilities to ensure that decisions to release sexual predators into the community are not made on the basis of inadequate space.

2. Providing for ~~specialized postincarceration~~ supervision of sexual predators who are in the community by specially trained probation officers with low caseloads, as described in ss. 948.03(5) and 947.1405(7). ~~for~~ The sexual predator is ~~population~~, subject to specified terms and conditions established by the Parole Commission as set forth in s. 947.1405(2), implemented at the time of release from incarceration, or at the time of sentencing, with a requirement that those who are financially able must pay all or part of the costs of supervision. ~~When the commission has reasonable grounds to believe that a sexual predator has violated the terms and conditions of release, such offender shall be subject to the provisions of s. 947.141 and shall be subject to forfeiture of gain time pursuant to s. 944.28(1).~~

3. ~~Providing for supervision of sexual predators who are released into the community, by an adequate number of well trained probation officers with low caseloads, with terms and conditions which may include electronic monitoring and which must include the special conditions as required in s. 947.1405(7).~~

4. Requiring the registration of sexual predators, with a requirement that complete and accurate information be maintained and accessible for use by law enforcement authorities, communities, and the public.

4.5. ~~Providing for community and public notification of the community concerning the presence of certain sexual predators.~~

5. ~~Prohibiting sexual predators from working with children, either for compensation or as a volunteer.~~

(c) ~~The public is not adequately protected from violent or repeat sex offenses. The nature of sex offenses, the devastation to the victims, the likelihood of violent and repeat offenses, and the costs of victimization are compelling reasons to focus state resources on addressing the problem of sexual predators.~~

(d) The state has a compelling interest in protecting the public from sexual predators and in protecting children from predatory sexual activ-

ity serious sex offenses, and there is sufficient justification for requiring sexual predators to register and for requiring community and public notification that the public be notified of the presence of certain sexual predators.

(d) It is the determination of the Legislature that, upon the court's written finding that an offender is a sexual predator, it is necessary in order to protect the public, that the sexual predator be registered with the department and that the community and the public be notified of the sexual predator's presence.

(e)(3) **LEGISLATIVE INTENT.**—It is the intent of the Legislature to address the problem of sexual predators by:

1. Requiring sexual predators supervised in the community to have special conditions of supervision and to be supervised by providing probation officers with low caseloads; and special conditions pursuant to the conditional release program;

2. Requiring sexual predators to register with the Florida Department of Law Enforcement, as provided in this section; and registration and the maintenance of access by law enforcement to locator and other registration information; and

3. Requiring community and public notification of the presence of a sexual predator, as provided in this section requiring the sheriff or chief of police to notify the public if, after a hearing, the circuit court finds that a sexual predator poses a threat to the public.

#### (4) SEXUAL PREDATOR CRITERIA. —

(a) For a current offense committed on or after October 1, 1993, and before October 1, 1995:

1. An offender who was found by the court under former s. 775.22 or former s. 775.23 to be a sexual predator is a "sexual predator" if the court made a written finding that the offender was a sexual predator at the time of sentencing, as required by former s. 775.23. Such sexual predator must register or be registered as a sexual predator with the department, but is not subject to community and public notification.

2. If an offender has been registered as a sexual predator by the Department of Corrections, the department, or any other law enforcement agency and:

a. The court did not, for whatever reason, make a written finding at the time of sentencing that the offender was a sexual predator; or

b. The offender was administratively registered as a sexual predator because the Department of Corrections, the department, or any other law enforcement agency obtained information that indicated that the offender met the sexual predator criteria based on a violation of a similar law in another jurisdiction,

the department shall remove that offender from the department's sexual predator list and shall so notify the state attorney who prosecuted the offense that triggered the administrative sexual predator designation in the case of offenders described in sub-subparagraph a., or the state attorney of the county where the offender permanently or temporarily resides on October 1, 1996, in the case of offenders described in sub-subparagraph b. The state attorney may bring the matter to the court's attention in order to establish that the offender meets the sexual predator criteria. If the court then makes a written finding that the offender is a sexual predator, the offender is designated as a sexual predator and must register or be registered as a sexual predator with the department, but is not subject to community and public notification. If the court does not make a written finding that the offender is a sexual predator, the offender is not designated as a sexual predator with respect to that offense, is not required to register or be registered as a sexual predator with the department, and is not subject to community and public notification.

(b) For a current offense committed on or after October 1, 1995, and before October 1, 1996:

1. An offender who was found by the court under former s. 775.22 or former s. 775.23 to be a sexual predator is a "sexual predator" if the court made a written finding that the offender was a sexual predator at the time of sentencing, as required by former s. 775.23. Such sexual predator must register or be registered with the department, and is subject to the community and public notification provisions of former s. 775.225.

2. If an offender has been registered as a sexual predator by the Department of Corrections, the department, or any other law enforcement agency and:

a. The court did not, for whatever reason, make a written finding at the time of sentencing that the offender was a sexual predator; or

b. The offender was administratively registered as a sexual predator because the Department of Corrections, the department, or any other law enforcement agency obtained information that indicated that the offender met the sexual predator criteria based on a violation of a similar law in another jurisdiction,

the department shall remove that offender from the department's sexual predator list and shall notify the state attorney who prosecuted the offense that triggered the administrative sexual predator designation in the case of offenders described in sub-subparagraph a., or the state attorney of the county where the offender permanently or temporarily resides on October 1, 1996, in the case of offenders described in sub-subparagraph b. The state attorney may bring the matter to the court's attention in order to establish that the offender meets the sexual predator criteria. If the court makes a written finding that the offender is a sexual predator, the offender is designated as a sexual predator, must register or be registered as a sexual predator with the department, and is subject to the community and public notification provisions under former s. 775.225. If the court does not make a written finding that the offender is a sexual predator, the offender is not designated as a sexual predator with respect to that offense, is not required to register or be registered as a sexual predator with the department, and is not subject to the community and public notification provisions under former s. 775.225.

(c) For a current offense committed on or after October 1, 1996, upon conviction, an offender shall be designated as a "sexual predator" under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

1. The felony meets the criteria of former ss. 775.22(2) and 775.23(2), specifically, the felony is:

a. A capital, life, or first-degree felony violation of chapter 794 or s. 847.0145, or of a similar law of another jurisdiction; or

b. Any second-degree or greater felony violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, or of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 794.011(2), (3), (4), (5), or (8), s. 794.023, s. 800.04, s. 827.071, s. 847.0133, or s. 847.0145, or of a similar law of another jurisdiction;

2. The offender has not received a pardon for any felony or similar law of another jurisdiction that is necessary for the operation of this paragraph; and

3. A conviction of a felony or similar law of another jurisdiction necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(d) In order to be counted as a prior felony for purposes of this subsection, the felony must have resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense and sentenced or adjudicated separately from any other felony conviction that is to be counted as a prior felony. If the offender's prior enumerated felony was committed more than 10 years before the primary offense, it shall not be considered a prior felony under this subsection if the offender has not been convicted of any other crime for a period of 10 consecutive years from the most recent date of release from confinement, supervision, or sanction, whichever is later.

(e) As used in this subsection, the term "conviction" means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld.

(5) **SEXUAL PREDATOR DESIGNATION.**—For a current offense committed on or after October 1, 1996, an offender is designated as a sexual predator as follows:

(a)1. An offender who meets the sexual predator criteria described in paragraph (4)(c) who is before the court for sentencing for a current

offense committed on or after October 1, 1996, is a sexual predator, and the sentencing court must make a written finding at the time of sentencing that the offender is a sexual predator; or

2. If the Department of Corrections, the department, or any other law enforcement agency obtains information that indicates that an offender who permanently or temporarily resides in this state meets the sexual-predator criteria described in paragraph (4)(c) because the offender committed a similar violation in another jurisdiction on or after October 1, 1996, the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney of the county where the offender permanently or temporarily resides of the offender's presence in the community. The state attorney shall file a petition with the criminal division of the circuit court for the purpose of holding a hearing to determine if the offender's criminal record from another jurisdiction meets the sexual-predator criteria. If the court finds that the offender meets the sexual-predator criteria because the offender has violated a similar law or similar laws in another jurisdiction, the court shall make a written finding that the offender is a sexual predator.

When the court makes a written finding that an offender is a sexual predator, the court shall inform the sexual predator of the registration and community and public notification requirements described in this section. Within 48 hours after the court designates an offender as a sexual predator, the clerk of the circuit court shall transmit a copy of the court's written sexual-predator finding to the department. If the offender is sentenced to a term of imprisonment or supervision, a copy of the court's written sexual-predator finding must be submitted to the Department of Corrections.

(b) If the Department of Corrections, the department, or any other law enforcement agency obtains information that indicates that an offender meets the sexual-predator criteria but the court did not make a written finding that the offender is a sexual predator as required in paragraph (a), the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney who prosecuted the offense in the case of offenders described in subparagraph (a)1., or the state attorney of the county where the offender temporarily or permanently resides upon first entering the state in the case of offenders described in subparagraph (a)2. The state attorney shall bring the matter to the court's attention in order to establish that the offender meets the sexual-predator criteria. If the state attorney fails to establish that an offender meets the sexual-predator criteria and the court does not make a written finding that an offender is a sexual predator, the offender is not required to register with the department as a sexual predator, and the department and other law enforcement agencies are not authorized to inform the community and the public of the offender's presence. The offender must comply with the convicted felon registration requirements under s. 775.13. The Department of Corrections, the department, or any other law enforcement agency shall not administratively designate an offender as a sexual predator without a written finding from the court that the offender is a sexual predator.

#### (6) REGISTRATION.—

(a) A sexual predator must register with the department by providing the following information to the department:

1. Name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, photograph, address of legal residence, address of any current temporary residence, date and place of any employment, date and place of each conviction, fingerprints, and a brief description of the crime or crimes committed by the offender.

2. Any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel, treatment, and abuse registry records; and evidentiary genetic markers when available.

The sexual predator may register directly with the department, or the Department of Corrections or any law enforcement agency may register the sexual predator with the department. The sexual predator is not required to make any further registration as a convicted felony offender in any county.

(b) Each sexual predator who is residing permanently or temporarily in the state outside of a correctional facility, jail, or secure treatment facility must register or be registered with the department within 48 hours after entering the county of permanent or temporary residence. A

sexual predator who is registered with the department must provide written notification to the department of any change in permanent or temporary residence within 48 hours after arrival at the new place of permanent or temporary residence.

(c) The department must notify the sheriff and the state attorney of the county and, if applicable, the police chief of the municipality, where the sexual predator permanently or temporarily resides within 48 hours after the sexual predator registers with the department or provides change-of-location information to the department.

(d)1. The department is responsible for the on-line maintenance of current information regarding each registered sexual predator. The department must maintain hotline access for state, local, and federal law enforcement agencies to obtain instantaneous locator file and offender characteristics information on all released registered sexual predators for purposes of monitoring, tracking, and prosecution. The photograph and fingerprints do not have to be stored in a computerized format.

2. The department's sexual predator registration list, containing the information described in subparagraph (a)1., is a public record. The department is authorized to disseminate this public information by any means deemed appropriate, including operating a "900" telephone number for this purpose. When the department provides information regarding a registered sexual predator to the public, department personnel must advise the person making the inquiry that positive identification of a person believed to be a sexual predator cannot be established unless a fingerprint comparison is made, and that it is illegal to use public information regarding a registered sexual predator to facilitate the commission of a crime.

3. The department shall adopt guidelines as necessary regarding the registration of sexual predators and the dissemination of information regarding sexual predators as required by this section.

(e) A sexual predator must maintain registration with the department for the duration of his or her life, unless the sexual predator has had his or her civil rights restored, or has received a full pardon or has had a conviction set aside in a postconviction proceeding for any felony sex offense that met the criteria for the sexual predator designation; however, a sexual predator who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 10 years and has not been arrested for any felony or misdemeanor offense since release, may petition the criminal division of the circuit court for the purpose of removing the sexual predator designation. The court has the discretion to grant or deny such relief.

#### (7) COMMUNITY AND PUBLIC NOTIFICATION.—

(a) Law enforcement agencies must inform the community and the public of a sexual predator's presence, pursuant to the guidelines adopted by the department for registration of sexual predators and the dissemination of information regarding sexual predators as required by this section. Upon notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator temporarily or permanently resides shall notify the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police. Information provided to the community and the public regarding a sexual predator must include:

1. The name of the sexual predator;
2. A description of the sexual predator, including a photograph;
3. The sexual predator's current address, including the name of the county or municipality;
4. The circumstances of the sexual predator's offense or offenses; and
5. The age of the victim of the sexual predator's offense or offenses.

This paragraph does not authorize the release of the name of any victim of the sexual predator.

(b) The sheriff or the police chief may coordinate the community and public notification efforts with the department. Statewide notification to the public is authorized, as deemed appropriate by local law enforcement personnel and the department.

(c) The department shall adopt a protocol to assist law enforcement agencies in their efforts to notify the community and the public of the presence of sexual predators. The department, in consultation and cooperation with the Department of Highway Safety and Motor Vehicles, shall determine the feasibility of requiring sexual predators to have a special designation on any drivers license, identification card, or license tag issued in this state.

(8) **IMMUNITY.**—When the court has made a written finding that an offender is a sexual predator, an elected or appointed official, public employee, or agency is immune from civil liability for damages resulting from the release of information under this section. This subsection does not preclude or diminish any immunity from liability for civil damages provided in s. 944.606.

(9) **PENALTIES.**—

(a) A sexual predator who fails to register or be registered or who fails, after registration, to provide required location information, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A sexual predator who has been convicted of or found to have committed, or has pled *nolo contendere* or guilty to, regardless of adjudication, any violation of s. 794.011(2), (3), (4), (5), or (8), s. 794.023, s. 800.04, s. 827.071, s. 847.0133, or s. 847.0145, or of a similar law of another jurisdiction, when the victim of the offense was a minor, and who works, whether for compensation or as a volunteer, at any business, school, day care center, park, playground, or other place where children regularly congregate, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 28. Section 775.22, Florida Statutes, is repealed:

~~775.22—Sexual predator registration; requirements, procedure, and penalties.—~~

~~(1) **LEGISLATIVE FINDINGS AND PURPOSE.**—~~

~~(a) In order to deter the commission of repeat sex offenses and sex offenses involving physical violence, to enhance law enforcement's ability to react when violent or repeat sex offenses are committed, and to collect and analyze statistical and informational data for monitoring and tracking purposes, it is essential to require statewide registration of sexual predators. This must be accomplished by maintaining an accurate and current computer database system for instant 24-hour-a-day access that allows the tracking of sexual predators. The purpose of this section is to enhance the public safety by requiring the registration of sexual predators, providing for the monitoring of their activities and the tracking of their whereabouts, facilitating law enforcement and prosecution, and providing information to communities to enhance public safety. The goal of this section is the on-line establishment of a centralized system through which certain information concerning sexual predators, including locator information, can be instantaneously accessed by local, state, and federal law enforcement.~~

~~(b)1. The Legislature finds that sexual predators often present a high risk of engaging in sexual offenses after being released from incarceration or commitment and that protection of the public from sexual predators is of paramount and compelling governmental importance. The Legislature further finds that local law enforcement's efforts to protect their communities, conduct appropriate investigations, and apprehend offenders who commit sexual offenses are impaired by the lack of information available to the public about convicted sexual predators and that the lack of information shared with the public may result in the failure of the criminal justice system to identify, investigate, apprehend, and prosecute offenders.~~

~~2. The state has a compelling interest in protecting the public from the commission of serious sexual offenses. The purpose of this act is to enhance the public safety by providing for notification to the community concerning the presence of offenders who fit the criteria for the category of sexual predator as defined in this chapter.~~

~~(2) **REGISTRATION CRITERIA.**—Each offender who is convicted, on a current offense committed on or after October 1, 1993, of, or is found to have committed, regardless of adjudication, or pleads guilty or *nolo contendere* to:~~

~~(a) Any capital, life, or first degree felony violation of chapter 794 or s. 847.0145, or of a similar law of another jurisdiction; or~~

~~(b) Any second degree or greater felony violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, or of a similar law of another jurisdiction, and who has previously been convicted of or found to have committed, regardless of adjudication, or has pled *nolo contendere* or guilty to, any violation of s. 794.011(2), (3), (4), (5), or (8), s. 794.023, s. 800.04, s. 827.071, s. 847.0133, or s. 847.0145, or of a similar law of another jurisdiction;~~

~~is a sexual predator and must register or be registered in accordance with this section. In order to be counted as a prior felony for purposes of designation as a sexual predator under this section, the felony must have been sentenced separately prior to the current offense.~~

~~(3) **REGISTRATION PROCEDURE.**—~~

~~(a) As used in this section, "registration" means provision of the following information to the Department of Law Enforcement, for access and use by local, state, and federal law enforcement:~~

~~1. Name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, photograph, address of legal residence, address of any current temporary residence, date and place of any employment, date and place of each conviction, fingerprints, and a brief description of the crime or crimes committed by the offender. The photograph and fingerprints do not have to be stored in a computerized format.~~

~~2. Any other information, including criminal and corrections records, nonprivileged personnel, treatment, and abuse registry records, and evidentiary genetic markers when available, that the Department of Law Enforcement determines is necessary.~~

~~(b) Each sexual predator who is residing permanently or temporarily in the state outside of a correctional facility or jail or secure treatment facility, with respect to whom registration is required by this section, must register or be registered within 48 hours after entering the county of permanent or temporary residence. As used in this paragraph, "entering the county" includes being discharged from a correctional facility or jail or secure treatment facility within the county or being under supervision within the county for the commission of a violation as itemized in paragraph (2)(a) or paragraph (2)(b); "temporary residence" includes a stay of 2 or more weeks; and "notify" means to provide written notice of the sexual predator's registration and location.~~

~~1. Registration shall be made with the Department of Law Enforcement. The sexual predator is not required to make any further registration in any county, and the department must notify the sheriff of the county where the sexual predator permanently or temporarily resides within 48 hours after registration of the sexual predator. A sexual predator who is registered with the Department of Law Enforcement must notify the department of any change in permanent or temporary residence within 48 hours after arrival at the new place of permanent or temporary residence.~~

~~2. The sheriff must notify the police chief of the municipality where the sexual predator resides, if any, within 48 hours after receiving the Department of Law Enforcement's notification of the sexual predator's registration.~~

~~3. The Department of Law Enforcement is responsible for the on-line maintenance of current information regarding each registered sexual predator.~~

~~(c) The registration requirement does not apply to a sexual predator:~~

~~1. Whose civil rights have been restored and who has not been convicted of a felony sex offense subsequent to restoration of civil rights;~~

~~2. Who has received a full pardon for any felony sex offense which met the criteria for a sexual predator designation; or~~

~~3. Whose prior enumerated offense under paragraph (2)(b) was committed before October 1, 1983, and such person has been lawfully released from custody and supervision for any felony sex offense committed prior to October 1, 1983, unless the sexual predator is a fugitive from justice on a felony charge.~~



(d) The Department of Law Enforcement shall notify a sexual predator who registers with the department for an offense committed on or after October 1, 1995, of the requirement for a hearing before the circuit court for the county where the sexual predator permanently or temporarily resides, as provided in s. 775.225, to determine whether the sexual predator poses a threat to the public.

(e) The Department of Law Enforcement may adopt rules as necessary to carry out its responsibilities with regard to the registration of sexual predators as required by this section.

(f) With respect to an offender released from incarceration or an offender under supervision who is required by this section to be registered as a sexual predator and who is not registered, the Department of Corrections, the county sheriff, or the employing agency of the officer supervising the offender, shall provide the offender with written notice and secure from the offender written acknowledgment of the registration requirements of this section, and shall register the offender with the Department of Law Enforcement in accordance with this section. The Department of Corrections, the county sheriff, or the employing agency of the officer supervising the offender shall also notify an offender who is registered or is required to be registered as a sexual predator that if the offender commits an act defined in this section on or after October 1, 1995, the offender will be subject to a hearing before the circuit court for the county where the sexual predator permanently or temporarily resides, as provided in s. 775.225, to determine whether the sexual predator poses a threat to the public.

(g) 1. Any sexual predator who is required by this section to register or be registered and who fails to register or be registered or who fails, after registration, to provide required notification of location, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Any sexual predator on supervised release from incarceration who is required by this section to register or be registered and who fails to register or be registered or who fails, after registration, to provide required notification of location, commits a violation of the conditions of the supervised release.

(h) The Department of Law Enforcement shall maintain, as a feature of its computerized sexual predator registration system, hotline access for state, local, and federal law enforcement officers to obtain instantaneous locator file and offender characteristics information on all released registered sexual predators for purposes of monitoring, tracking, and prosecution.

Section 29. Section 775.225, Florida Statutes, is repealed:

775.225 Public notice of presence of sexual predator; hearing required.—

(1) Following the registration of a sexual predator as required under s. 775.22, the state attorney shall file a petition with the circuit court for the county where the sexual predator permanently or temporarily resides for the purpose of holding a hearing to determine, by a preponderance of the evidence, whether the sexual predator poses a threat to the public. At the hearing, the sexual predator has the right to be present, to present testimony, to call and cross-examine witnesses, and to be represented by counsel. The court shall consider all relevant evidence, including, but not limited to:

(a) The relationship between the sexual predator and the victim of the offense described in s. 775.22(2);

(b) Whether the offense described in s. 775.22(2) involved the use of a weapon or violence, or the threat of violence;

(c) The circumstances surrounding any prior sexual offenses or violent offenses, including the number of the offenses and the date they were committed;

(d) Whether there is evidence, based on a psychological or psychiatric evaluation or treatment and evaluation records or expert testimony, which indicates a risk of recidivism;

(e) The sexual predator's response to treatment, if any; and

(f) The recent behavior of the sexual predator.

The state has the right, upon motion, to conduct a mental examination of the sexual predator.

(2)(a) If, after considering the evidence, the court finds that the sexual predator poses a threat to the public and that notice to the community where the sexual predator temporarily or permanently resides is necessary to protect public safety, the court shall submit its finding to the sheriff of that county or the chief of police of that municipality.

(b) Notwithstanding any other law to the contrary, the sheriff of the county or the chief of police of the municipality where the sexual predator temporarily or permanently resides shall notify the public of the presence of the sexual predator. The notice must be published once a week for 2 consecutive weeks, two publications being sufficient, in a newspaper of general circulation distributed in the county where the sexual predator temporarily or permanently resides. The notice must include:

1. The name of the sexual predator;

2. A description of the sexual predator, including a photograph;

3. The name of the county or municipality where the sexual predator temporarily or permanently resides;

4. The offense and the circumstances surrounding the conviction of the sexual predator for the offense described in s. 775.22(2); and

5. The age of the victim of the offense described in s. 775.22(2).

This paragraph does not authorize the release of the name of the victim.

(3) An elected official, public employee, or agency is immune from civil liability for damages resulting from the release of information under this section.

Section 30. Section 775.23, Florida Statutes, is repealed:

775.23 Sexual predators.—

(1) **LEGISLATIVE FINDINGS AND PURPOSE.** The Legislature finds that repeat sex offenders and sex offenders who use physical violence are sexual predators who present an extreme threat to the public safety and that these offenders must be subject to intensive specialized supervision under conditions as required in s. 947.1405(7) upon release from incarceration.

(2) **DEFINITION.** As used in this section, "sexual predator" means an offender who is convicted on the current offense or is found to have committed, regardless of adjudication, or who pleads nolo contendere or guilty to:

(a) Any capital, life, or first degree felony violation of chapter 794 or s. 847.0145, or of a similar law of another jurisdiction; or

(b) Any second degree or greater felony violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, or of a similar law of another jurisdiction, and who has previously been convicted of or found to have committed, regardless of adjudication, or has pled nolo contendere or guilty to, any violation of s. 794.011(2), (3), (4), (5), or (8), s. 794.023, s. 800.04, s. 827.071, s. 847.0133, or s. 847.0145, or of a similar law of another jurisdiction. In order to be counted as a prior felony for purposes of designation as a sexual predator under this section, the felony must have been sentenced separately prior to the current offense.

(3) **FINDING AND NOTICE.**—

(a) Upon sentencing an offender who meets the definition of paragraph (2)(a) or paragraph (2)(b), when the current offense was committed on or after October 1, 1993, the court shall make a written finding that the offender is a sexual predator.

(b) Upon sentencing a sexual predator for an offense committed on or after October 1, 1995, the court shall notify the sexual predator of the requirement for a hearing before the circuit court for the county where the sexual predator permanently or temporarily resides, as provided in s. 775.225, to determine whether the sexual predator poses a threat to the public.

Section 31. Section 782.04, Florida Statutes, is amended to read:

**782.04 Murder.—**

(1)(a) The unlawful killing of a human being:

1. When perpetrated from a premeditated design to effect the death of the person killed or any human being; or

2. When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any:

- a. Trafficking offense prohibited by s. 893.135(1),
- b. Arson,
- c. Sexual battery,
- d. Robbery,
- e. Burglary,
- f. Kidnapping,
- g. Escape,
- h. Aggravated child abuse,
- i. Aircraft piracy,
- j. Unlawful throwing, placing, or discharging of a destructive device or bomb,
- k. Carjacking,
- l. Home-invasion robbery,
- m. Aggravated stalking, ~~or~~

*n. Aggravated abuse or neglect of an elderly person or disabled adult,*  
*or*

3. Which resulted from the unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,

is murder in the first degree and constitutes a capital felony, punishable as provided in s. 775.082.

(b) In all cases under this section, the procedure set forth in s. 921.141 shall be followed in order to determine sentence of death or life imprisonment.

(2) The unlawful killing of a human being, when perpetrated by any act imminently dangerous to another and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual, is murder in the second degree and constitutes:

(a) A felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A life felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the murder is the result of the person's operation of a motor vehicle or vessel, and:

1. At the time of the accident, the person knew, or should have known, that the accident occurred; and

2. The person failed to give information and render aid as required by s. 316.062 or s. 327.30(1).

*This paragraph does not require that the person knew that the accident resulted in injury or death. Any person who is convicted under this paragraph shall be sentenced to a minimum mandatory term of imprisonment of 25 calendar years.*

(3) When a person is killed in the perpetration of, or in the attempt to perpetrate, any:

- (a) Trafficking offense prohibited by s. 893.135(1),
- (b) Arson,
- (c) Sexual battery,
- (d) Robbery,
- (e) Burglary,
- (f) Kidnapping,
- (g) Escape,
- (h) Aggravated child abuse,
- (i) Aircraft piracy,
- (j) Unlawful throwing, placing, or discharging of a destructive device or bomb,
- (k) Carjacking,
- (l) Home-invasion robbery, ~~or~~
- (m) Aggravated stalking, *or*

*(n) Aggravated abuse or neglect of an elderly person or disabled adult,*

by a person other than the person engaged in the perpetration of or in the attempt to perpetrate such felony, the person perpetrating or attempting to perpetrate such felony is guilty of murder in the second degree, which constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) The unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than any:

- (a) Trafficking offense prohibited by s. 893.135(1),
- (b) Arson,
- (c) Sexual battery,
- (d) Robbery,
- (e) Burglary,
- (f) Kidnapping,
- (g) Escape,
- (h) Aggravated child abuse,
- (i) Aircraft piracy,
- (j) Unlawful throwing, placing, or discharging of a destructive device or bomb,

(k) Unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,

- (l) Carjacking,
- (m) Home-invasion robbery, ~~or~~
- (n) Aggravated stalking, *or*
- (o) *Aggravated abuse or neglect of an elderly person or disabled adult,*

is murder in the third degree and constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 32. Section 782.051, Florida Statutes, is created to read:

## 782.051 Felony causing bodily injury.—

(1) Any person who perpetrates or attempts to perpetrate any felony enumerated in s. 782.04(3) and who commits, aids, or abets an act that causes bodily injury to another commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life, or as provided in s. 775.082, s. 775.083, or s. 775.084, which is an offense ranked in level nine of the sentencing guidelines. Victim injury points shall be scored under this subsection.

(2) Any person who perpetrates or attempts to perpetrate any felony other than a felony enumerated in s. 782.04(3) and who commits, aids, or abets an act that causes bodily injury to another commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, which is an offense ranked in level eight of the sentencing guidelines. Victim injury points shall be scored under this subsection.

(3) When a person is injured during the perpetration of or the attempt to perpetrate any felony enumerated in s. 782.04(3) by a person other than the person engaged in the perpetration of or the attempt to perpetrate such felony, the person perpetrating or attempting to perpetrate such felony commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, which is an offense ranked in level seven of the sentencing guidelines. Victim injury points shall be scored under this subsection.

Section 33. Section 782.07, Florida Statutes, is amended to read:

782.07 Manslaughter.—The killing of a human being by the act, procurement, or culpable negligence of another, without lawful justification according to the provisions of chapter 776 and in cases in which such killing is ~~shall not be excusable homicide or murder, according to the provisions of this chapter, is shall be deemed manslaughter and constitutes: shall constitute~~

(1) A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the manslaughter is the result of the person's operation of a motor vehicle or vessel, and:

(a) At the time of the accident, the person knew, or should have known, that the accident occurred; and

(b) The person failed to give information and render aid as required by s. 316.062 or s. 327.30(1).

*This subsection does not require that the person knew that the accident resulted in injury or death.*

Section 34. Section 782.071, Florida Statutes, is amended to read:

## 782.071 Vehicular homicide.—

(4) "Vehicular homicide" is the killing of a human being by the operation of a motor vehicle by another in a reckless manner likely to cause the death of, or great bodily harm to, another. Vehicular homicide is:

(1) A felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) ~~Any person who commits vehicular homicide and willfully fails to stop or comply with the requirements of s. 316.027(1) is guilty of~~ A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

(a) At the time of the accident, the person knew, or should have known, that the accident occurred; and

(b) The person failed to give information and render aid as required by s. 316.062.

*This subsection does not require that the person knew that the accident resulted in injury or death.*

Section 35. Section 782.072, Florida Statutes, is amended to read:

## 782.072 Vessel homicide.—

(4) "Vessel homicide" is the killing of a human being by the operation of a vessel as defined in s. 327.02 by another in a reckless manner likely to cause the death of, or great bodily harm to, another. Vessel homicide is:

(1) A felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) ~~Any person who commits vessel homicide and willfully fails to stop or comply with the requirements of s. 327.30(4) is guilty of~~ A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

(a) At the time of the accident, the person knew, or should have known, that the accident occurred; and

(b) The person failed to give information and render aid as required by s. 327.30(1).

*This subsection does not require that the person knew that the accident resulted in injury or death.*

Section 36. Subsection (3) of section 784.07, Florida Statutes, is amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, or other specified officers; reclassification of offenses; minimum sentences.—

(3) Any person who is convicted of a battery under paragraph (2)(b) and, during the commission of the offense, such person possessed:

(a) A "firearm," as defined in s. 791.001(6), or "destructive device," as those terms are defined in s. 790.001(4), shall be sentenced to a minimum term of imprisonment of 3 years.

(b) A semiautomatic firearm and its high-capacity detachable box magazine, as defined in s. 775.087(3), or a machine gun as defined in s. 790.001 ~~791.001(9)~~, shall be sentenced to a minimum term of imprisonment of 8 years.

Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, prior to serving the minimum sentence. ~~An offender sentenced under this subsection is not eligible for control release under s. 947.146.~~

Section 37. Section 800.045, Florida Statutes, is created to read:

## 800.045 Unlawful videotaping, photographing, or filming.—

(1) As used in this section, the term:

(a) "Explicit consent" means to give permission that is clearly and openly stated, in writing or on videotape, and that offers details as to the content of a photograph, videotape, or motion picture that is to be made.

(b) "Reasonable expectation of privacy" means any area or location that is reasonably expected to be free from undesirable intrusions or hidden from or undisturbed by the observations or activities of other persons.

(2)(a) Except as otherwise specifically provided in this chapter, it is unlawful to photograph, videotape, or create a motion picture of a person who has a reasonable expectation of privacy, unless that person has given explicit consent.

(b) It is unlawful for any person to knowingly possess any photograph, videotape, negative, motion picture, or undeveloped film that is taken in violation of paragraph (a).

(c) The possession of three or more photographs, videotapes, negatives, motion pictures, or undeveloped film that the possessor knows were taken in violation of paragraph (a) is relevant to proving a violation of this section.

(3) This section does not prohibit the taking of a photograph, videotape, or motion picture:

(a) By a law enforcement agency in the course of a lawful criminal investigation.

(b) By a person authorized to do so by court order.

(c) By a member of the news media in the course of that member's investigation or report of a news event.

(d) By a person licensed under chapter 493 in the course of a lawful investigation conducted by such person.

(e) By a person in the course of obtaining evidence of, or to prevent the commission of, a crime, or in order to protect the health or safety of one of his or her customers or employees.

(f) By a person conducting insurance claim investigations.

(4) A person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 38. Subsections (1) and (2) of section 810.011, Florida Statutes, are amended, and subsection (12) is added to that section, to read:

810.011 Definitions.—As used in this chapter:

(1) "Structure" means a building of any kind, either temporary or permanent, which has a roof over it, together with the curtilage thereof. However, during the time of a state of emergency declared by executive order or proclamation of the Governor under chapter 252 and within the area covered by such executive order or proclamation and for purposes of ss. 810.02 and 810.08 only, the term means a building of any kind or such portions or remnants thereof as exist at the original site, regardless of absence of a wall or roof.

(2) "Dwelling" means a building or conveyance of any kind, either temporary or permanent, mobile or immobile, which has a roof over it and is designed to be occupied by people lodging therein at night, together with the curtilage thereof. However, during the time of a state of emergency declared by executive order or proclamation of the Governor under chapter 252 and within the area covered by such executive order or proclamation and for purposes of ss. 810.02 and 810.08 only, the term includes such portions or remnants thereof as exist at the original site, regardless of absence of a wall or roof.

(12) "Curtilage" means the ground and buildings immediately surrounding a structure or dwelling. It is not necessary for the curtilage to be enclosed.

Section 39. Section 825.102, Florida Statutes, is amended to read:

825.102 Abuse and neglect of an elderly person or disabled adult; penalties.—

(1) A person who knowingly, willfully, or by culpable negligence abuses or neglects an elderly person or disabled adult and, in so doing, causes great bodily harm, permanent disfigurement, or permanent disability to the person commits *aggravated abuse or neglect of an elderly person or disabled adult*, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A person who knowingly, willfully, or by culpable negligence abuses or neglects an elderly person or disabled adult commits *abuse or neglect of an elderly person or disabled adult*, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 40. Subsection (4) is added to section 827.04, Florida Statutes, to read:

827.04 Child abuse.—

(4) A person 21 years of age or older who impregnates a child under 16 years of age commits an act of child abuse which constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person who impregnates a child in violation of this subsection commits an offense under this subsection regardless of whether the person is found to have committed, or has been charged with or prosecuted for, any other offense committed during the course of the same criminal transaction or episode, including, but not limited to, an offense proscribed under s. 800.04, relating to lewd, lascivious, or indecent assault or act upon any person under 16 years of age. Neither the victim's

lack of chastity nor the victim's consent is a defense to the crime proscribed under this subsection.

Section 41. For the purpose of incorporating the amendment to section 827.04, Florida Statutes, in references thereto, subsection (5) of section 787.04, Florida Statutes, and section 914.16, Florida Statutes, are reenacted to read:

787.04 Removing minors from state or concealing minors contrary to state agency order or court order.—

(5) It is a defense under this section that a person who leads, takes, entices, or removes a minor beyond the limits of the state reasonably believes that his action was necessary to protect the minor from child abuse as defined in s. 827.04.

914.16 Child abuse and sexual abuse of victims under age 16 or persons with mental retardation; limits on interviews.—The chief judge of each judicial circuit, after consultation with the state attorney and the public defender for the judicial circuit, the appropriate chief law enforcement officer, and any other person deemed appropriate by the chief judge, shall provide by order reasonable limits on the number of interviews that a victim of a violation of s. 794.011, s. 800.04, s. 827.03, or s. 827.04 who is under 16 years of age or a victim of a violation of s. 794.011, s. 800.02, s. 800.03, or s. 825.102 who is a person with mental retardation as defined in s. 393.063(41) must submit to for law enforcement or discovery purposes. The order shall, to the extent possible, protect the victim from the psychological damage of repeated interrogations while preserving the rights of the public, the victim, and the person charged with the violation.

Section 42. (1) The Legislature intends to facilitate the criminal prosecution of persons 21 years of age or older who have impregnated a child under 16 years of age by ensuring that paternity is determined for a dependent child whose mother was impregnated while under 16 years of age.

(2) Whenever paternity has not been established for a dependent child whose mother was impregnated with the child while under 16 years of age, the mother shall be required to identify the father of the child and cooperate as provided in s. 409.2572, including Human Leukocyte Antigen or other scientific tests.

(3) Whenever the information provided by a mother who was impregnated while under 16 years of age indicates that the alleged father of the child was 21 years of age or older at the time of conception of the child, the Department of Revenue or the Department of Health and Rehabilitative Services shall advise the applicant or recipient of public assistance that she is required to cooperate with law enforcement officials in the prosecution of the alleged father.

(4) When the information provided by the applicant or recipient who was impregnated while under age 16 indicates that such person is the victim of child abuse as provided in s. 827.04(4), Florida Statutes, the Department of Revenue or the Department of Health and Rehabilitative Services shall notify the county sheriff's office or other appropriate agency or official and provide information needed to protect the child's health or welfare.

(5) The confidentiality of any records under chapter 742, Florida Statutes, relating to determination of paternity, does not prohibit the sharing of information for the purpose of cooperating with an ongoing criminal investigation.

Section 43. Criminal penalties for false statements of paternity.—Notwithstanding any other provision of law, any person who knowingly and willfully provides false information to the sheriff's office, other law enforcement agency, or governmental agency, or under oath regarding the paternity of a child in conjunction with an application for, or the receipt of, public assistance for a dependent child commits a misdemeanor of the second degree, punishable as provided in section 775.082, Florida Statutes, or section 775.083, Florida Statutes, in addition to remaining subject to any other civil or criminal penalties for perjury or making false statements which are applicable under other provisions of law.

Section 44. Section 827.071, Florida Statutes, is amended to read:

827.071 Sexual performance by a child; penalties.—

(1) As used in this section, ~~the following definitions shall apply:~~

(a) "Deviate sexual intercourse" means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

(b) "Performance" means any play, motion picture, *video*, photograph, or dance or any other visual representation exhibited before an audience.

(c) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do the same.

(d) "Sodomasochistic abuse" means flagellation or torture by or upon a person, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction from inflicting harm on another or receiving such harm oneself.

(e) "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, "sexual battery" does not include an act done for a bona fide medical purpose.

(f) "Sexual bestiality" means any sexual act between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

(g) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sodomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast, with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed.

(h) "Sexual performance" means any performance or part thereof which includes sexual conduct by a child of less than 18 years of age.

(i) "Simulated" means the explicit depiction of conduct set forth in paragraph (g) which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.

(2) A person is guilty of the use of a child in a sexual performance if, knowing the character and content thereof, ~~the person he~~ employs, authorizes, or induces a child less than 18 years of age to engage in a sexual performance or, being a parent, legal guardian, or custodian of such child, consents to the ~~child's participation by such child~~ in a sexual performance. ~~A person who~~ ~~Whoever~~ violates this subsection ~~commits~~ ~~is guilty of~~ a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person is guilty of promoting a sexual performance by a child when, knowing the character and content thereof, ~~the person he~~ produces, directs, or promotes any performance ~~that which~~ includes sexual conduct by a child less than 18 years of age. ~~A person who~~ ~~Whoever~~ violates this subsection ~~commits~~ ~~is guilty of~~ a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) It is unlawful for any person to possess with the intent to promote any photograph, motion picture, *video*, exhibition, show, representation, or other presentation ~~that which~~, in whole or in part, includes any sexual conduct by a child. The possession of three or more copies of such photograph, motion picture, *video*, representation, or presentation is prima facie evidence of an intent to promote. ~~A person who~~ ~~Whoever~~ violates this subsection ~~commits~~ ~~is guilty of~~ a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) It is unlawful for any person to knowingly possess a photograph, motion picture, *video*, exhibition, show, representation, or other presentation ~~that which~~, in whole or in part, ~~the person he~~ knows to include any sexual conduct by a child. The possession of each such photograph, motion picture, *video*, exhibition, show, representation, or presentation is a separate offense. ~~A person who~~ ~~Whoever~~ violates this subsection ~~commits~~ ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6)(a) A person enumerated in this paragraph who knows of or observes, in the scope of the person's professional capacity or employment, any film, photograph, negative, slide, videotape, video disc, video program, or computer program that the person reasonably believes depicts a child under 18 years of age engaging in sexual conduct, must report such knowledge or observation to a law enforcement agency as soon as practically possible. Upon the request of the law enforcement agency, the person shall prepare a copy of the film, photograph, negative, slide, videotape, video disc, video program, or computer program and shall transfer the copy to the law enforcement agency. This section applies to any person who: commercially processes film or photographic prints; commercially produces, directs, edits, or duplicates videotape or video discs; sells, trades, or rents videotapes, video discs, or computer programs that produce video images; commercially programs, operates, or services computers; or commercially offers computer network services or options.

(b) A person who knowingly fails to make a report as required in this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) A person who reports information to a law enforcement agency as required in this subsection, or who cooperates with a law enforcement investigation or a criminal prosecution that results from such report, is immune from any civil or criminal liability that may otherwise be incurred or imposed.

Section 45. Section 827.075, Florida Statutes, is created to read:

827.075 Photographing, videotaping, or creating motion pictures of children without parental consent; penalties.—

(1) As used in this section, the term:

(a) "Clandestine" means kept or done in secret, often in order to conceal an illicit or improper purpose.

(b) "Explicit consent" means to give permission that is clearly and openly stated, in writing or on videotape, and that offers details as to the content of a photograph, videotape, or motion picture that is to be made.

(2)(a) Except as otherwise specifically provided in this chapter, it is unlawful to photograph, videotape, or create a motion picture of any child, in a clandestine fashion or without explicit consent of the parent or legal guardian of each child in the videotape, photograph, or motion picture if:

1. The child is the focus of the photograph, videotape, or motion picture;

2. The photograph, videotape, or motion picture contains any exposure of the child's breasts, genitals, or buttocks with less than full opaque covering; and

3. The photograph, videotape, or motion picture was produced with the intent to arouse or gratify the sexual desire of any person.

(b) It is unlawful for any person to knowingly possess any photograph, videotape, negative, motion picture, or undeveloped film that was taken in violation of paragraph (a).

(c) The possession of three or more photographs, videotapes, negatives, motion pictures, or undeveloped film that the possessor knows were taken in violation of paragraph (a) is relevant to proving a violation of this section.

(3) This section does not prohibit the taking of a photograph, videotape, or motion picture:

(a) By a law enforcement agency in the course of a lawful criminal investigation.

(b) By a person authorized to do so by court order.

(c) By a member of the news media in the course of that member's investigation or report of a news event.

(d) By a person licensed under chapter 493 in the course of a lawful investigation conducted by such person.

(e) By a person in the course of obtaining evidence of, or to prevent the commission of, a crime, or in order to protect the health or safety of one of his or her customers or employees.

(f) By a person conducting insurance claim investigations.

(4) A person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 46. Section 847.0135, Florida Statutes, is amended to read:

847.0135 Computer pornography; penalties.—

(1) **SHORT TITLE.**—This section ~~shall be known and~~ may be cited as the "Computer Pornography and Child Exploitation Prevention Act of 1986."

(2) **DEFINITIONS.**—As used in this section, the term "minor" means any person under 18 years of age. Unless otherwise encompassed in the definition of the term "computer," which is provided in s. 847.001 and is applicable to this section, the term "computer" also includes any on-line service, internet service, or local bulletin board; any electronic storage device, including a floppy disk or other magnetic storage device; any compact disc that has read-only memory and the capacity to store audio, video, or written materials; or any material printed, published, or reproduced by means of a computer, as that term is defined in s. 847.001 and in this subsection.

(3) **INFORMATION ON MINORS.**—It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for a person to knowingly:

(a) Compile, transmit, purchase, receive, exchange, disseminate, print, publish, or reproduce, by means of a computer, any statement, notice, advertisement, descriptive information, or identifying information about a minor, including a minor's name, telephone number, place of residence, or physical characteristics, for the purpose of committing, or facilitating, encouraging, or soliciting the commission of, an act upon the minor which is:

1. An act in violation of this section;
2. An obscene act, deviate sexual intercourse, sadomasochistic abuse, sexual battery, sexual bestiality, or sexual conduct, as those terms are defined in s. 847.001; or
3. An act that is described in chapter 794, chapter 800, or chapter 827.

(b) Authorize a person to commit a violation of paragraph (a).

(4) **COMPUTER EXPLOITATION OF A MINOR.**—It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for a person, by means of a computer, to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice:

(a) A minor for the purpose of committing, or facilitating or encouraging the commission of, an act upon such minor which is:

1. An obscene act, deviate sexual intercourse, sadomasochistic abuse, sexual battery, sexual bestiality, or sexual conduct, as those terms are defined in s. 847.001; or
2. An act that is described in chapter 794, chapter 800, or chapter 827.

(b) A minor to participate in an act that is:

1. An obscene act, deviate sexual intercourse, sadomasochistic abuse, sexual battery, sexual bestiality, or sexual conduct, as those terms are defined in s. 847.001; or
2. An act that is described in chapter 794, chapter 800, or chapter 827.

(c) Any person to commit, or facilitate or encourage the commission of, an act upon a minor that is:

1. A violation of this section;

2. An obscene act, deviate sexual intercourse, sadomasochistic abuse, sexual battery, sexual bestiality, or sexual conduct, as those terms are defined in s. 847.001; or

3. An act that is described in chapter 794, chapter 800, or chapter 827.

(5) **COMPUTER PORNOGRAPHY.**—It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for a person to knowingly:

(a) Transmit to a minor by means of a computer, any visual representation of:

1. An obscene act, deviate sexual intercourse, sadomasochistic abuse, sexual battery, sexual bestiality, or sexual conduct, as those terms are defined in s. 847.001; or

2. An act that is described in chapter 794, chapter 800, or chapter 827.

(b) Transmit to any person a visual representation of a minor engaged in an act that is:

1. An obscene act, deviate sexual intercourse, sadomasochistic abuse, sexual battery, sexual bestiality, or sexual conduct, as those terms are defined in s. 847.001; or

2. An act that is described in chapter 794, chapter 800, or chapter 827.

(c) Authorize a person to commit a violation of paragraph (a) or paragraph (b).

(6) **OWNERS OR OPERATORS OF COMPUTER SERVICES.**—It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for an owner or operator of a computer on-line service, internet service, or local bulletin board service to knowingly permit a subscriber to use any of these services to commit a violation of this section. Pursuant to s. 775.083(g) and this section, the court may impose a fine of up to \$2,000 for a violation of this subsection.

(7) **STATE CRIMINAL JURISDICTION.**—Notwithstanding chapter 910 or any other provision of law to the contrary, a person is subject to prosecution in this state if the person engages in conduct upon a person who resides in this state which is a violation of this section, whether the person resides in this state or another state when he engages in such conduct.

(8) **DISALLOWED DEFENSE.**—It shall not constitute a defense to a prosecution for any violation of this section that any stratagem or deception, including the use of an undercover operative or law enforcement officer, was employed.

~~(2) **COMPUTER PORNOGRAPHY.**—A person is guilty of a violation of this section if he knowingly compiles, enters into, or transmits by means of computer, or makes, prints, publishes, or reproduces by other computerized means, or knowingly causes or allows to be entered into or transmitted by means of computer, or buys, sells, receives, exchanges, or disseminates any notice, statement, or advertisement, or any minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information, for purposes of facilitating, encouraging, offering, or soliciting sexual conduct of or with any minor, or the visual depiction of such conduct.~~

~~(3) **PENALTIES.**—Any person who violates the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided for in s. 775.082 or s. 775.083.~~

Section 47. Paragraphs (a), (b), and (c) of subsection (1) of section 893.135, Florida Statutes, are amended to read:

893.135 Trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.—

(1) Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13:

(a) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or construc-



tive possession of, in excess of 50 ~~100~~ pounds of cannabis commits a felony of the first degree, which felony shall be known as "trafficking in cannabis." If the quantity of cannabis involved:

1. Is in excess of 50 ~~100~~ pounds, but less than 2,000 pounds, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of \$25,000.

2. Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of \$50,000.

3. Is 10,000 pounds or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$200,000.

(b)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of cocaine, as described in s. 893.03(2)(a)4., or of any mixture containing cocaine, but less than 150 kilograms of cocaine or any such mixture, commits a felony of the first degree, which felony shall be known as "trafficking in cocaine." If the quantity involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of \$50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of \$100,000.

c. Is 400 grams or more, but less than 150 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$250,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 150 kilograms or more of cocaine, as described in s. 893.03(2)(a)4., commits the first degree felony of trafficking in cocaine. A person who has been convicted of the first degree felony of trafficking in cocaine under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except *pardon or executive clemency* or conditional medical release under s. 947.149. However, if *the court determines that*, in addition to committing the commission of any act specified in this paragraph, ~~that person:~~

a. *The person intentionally killed kills an individual or counseled, commanded, induced, procured, or caused counsels, commands, induces, procures, or causes the intentional killing of an individual and such killing was the result results;* or

b. *The person's conduct in committing is determined, with respect to the commission of that act, to have had a highly culpable mental state and, as a result of that act, the defendant's conduct led to a natural, though not inevitable, lethal result, which state may be taken into account in any capital sentencing judgment;*

such person commits the capital felony of trafficking in cocaine, punishable as provided in ss. 775.082 and 921.142. *Any Such person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1. For the purposes of this paragraph, a "highly culpable mental state" is represented by a reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death.*

(c)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b) or (2)(a), or 4 grams or more of any mixture containing any such substance, but less than 30 kilograms of such substance or mixture, commits a felony of the first degree, which felony shall be known as "trafficking in illegal drugs." If the quantity involved:

a. Is 4 grams or more, but less than 14 grams, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of \$50,000.

b. Is 14 grams or more, but less than 28 grams, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of \$100,000.

c. Is 28 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and pay a fine of \$500,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 30 kilograms or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b) or (2)(a), or 30 kilograms or more of any mixture containing any such substance, commits the first degree felony of trafficking in illegal drugs. A person who has been convicted of the first degree felony of trafficking in illegal drugs under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except *pardon or executive clemency* or conditional medical release under s. 947.149. However, if *the court determines that*, in addition to committing the commission of any act specified in this paragraph, ~~that person:~~

a. *The person intentionally killed kills an individual or counseled, commanded, induced, procured, or caused counsels, commands, induces, procures, or causes the intentional killing of an individual and such killing was the result results;* or

b. *The person's conduct in committing is determined, with respect to the commission of that act, to have had a highly culpable mental state and, as a result of that act, the defendant's conduct led to a natural, though not inevitable, lethal result, which state may be taken into account in any capital sentencing judgment;*

such person commits the capital felony of trafficking in illegal drugs, punishable as provided in ss. 775.082 and 921.142. *Any Such person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1. For the purposes of this paragraph, a "highly culpable mental state" is represented by a reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death.*

Section 48. Subsection (7) of section 901.15, Florida Statutes, is amended to read:

901.15 When arrest by officer without warrant is lawful.—A law enforcement officer may arrest a person without a warrant when:

(7)(a) There is probable cause to believe that the person has committed an act of domestic violence, as defined in s. 741.28, or child abuse, as defined in s. 827.04(2), and (3), and (4), or any battery upon another person, as defined in s. 784.03, and the law enforcement officer reasonably believes that there is danger of violence unless the person alleged to have committed the act of domestic violence, child abuse, or battery is arrested without delay.

(b) A law enforcement officer who acts in good faith and exercises due care in making an arrest under this subsection is immune from civil liability that otherwise might result by reason of his action.

Section 49. Section 918.015, Florida Statutes, is amended to read:

918.015 Right to speedy trial.—

(1) In all criminal prosecutions the state and the defendant shall each have the right to a speedy trial.

(2) The Supreme Court *may shall*, by rule of ~~said court~~, provide procedures through which the right of *the state and the defendant* to a speedy trial as guaranteed by subsection (1) and by s. 16, Art. I of the State Constitution, shall be realized. *However, a court may not discharge a criminal defendant from prosecution unless it finds a substantive violation of the defendant's constitutional right to a speedy trial.*

Section 50. Section 918.12, Florida Statutes, is amended to read:

918.12 Tampering with, *harassing, or retaliating against* jurors.—

(1) A ~~Any~~ person who influences the judgment or decision of any grand or petit juror on any matter, question, cause, or proceeding *that is which may be pending, or which may by law be brought, before him*

as such juror, with intent to obstruct the administration of justice, commits ~~shall be guilty~~ of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) *A person who willfully and maliciously harasses a grand or petit juror because of any matter, question, cause, or proceeding that has been brought before such juror, or is pending or may by law be brought before such juror, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

(3) *A person who willfully and maliciously harasses a grand or petit juror because of any matter, question, cause, or proceeding that has been brought before such juror, or is pending or may by law be brought before such juror, and causes bodily injury, or causes property damage and makes a credible threat with the intent to place that juror in reasonable fear of bodily injury, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

(4) *A person who willfully and maliciously retaliates against a grand or petit juror because of any matter, question, cause, or proceeding that has been brought before such juror, and causes bodily injury, or causes property damage and makes a credible threat with the intent to place that juror in reasonable fear of bodily injury, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Section 51. Subsection (5) of section 921.001, Florida Statutes, is amended to read:

921.001 Sentencing Commission and sentencing guidelines generally.—

(5)(a) *Except as provided in paragraph (b), sentences imposed by trial court judges under the 1994 revised sentencing guidelines on or after January 1, 1994, must be within the 1994 guidelines unless there is a departure sentence with written findings. If a recommended sentence under the guidelines exceeds the maximum sentence otherwise authorized by s. 775.082, the sentence under the guidelines must be imposed, absent a departure. If a departure sentence, with written findings, is imposed, such sentence must be within any relevant maximum sentence limitations provided in s. 775.082. The failure of a trial court to impose a sentence within the sentencing guidelines is subject to appellate review pursuant to chapter 924. However, the extent of a departure from a guidelines sentence is not subject to appellate review.*

(b) *A defendant who is sentenced for a felony committed on or after October 1, 1996, and whose recommended sentence under the guidelines is not a state prison sanction, may be sentenced to a term of incarceration not to exceed 22 months. Such sentence is not subject to appeal, except as provided in s. 924.06(1)(d).*

Section 52. Subsection (7) of section 921.0011, Florida Statutes, is amended to read:

921.0011 Definitions.—As used in this chapter, the term:

(7) "Victim injury" means the physical injury or death suffered by a person as a direct result of the primary offense, or any offense other than the primary offense, for which an offender is convicted and which is pending before the court for sentencing at the time of the primary offense. If the conviction is for an offense involving sexual contact which includes sexual penetration, the sexual penetration must be scored in accordance with the sentence points provided under s. 921.0014 for sexual penetration, ~~as a severe injury~~ regardless of whether there is evidence of any physical injury. If the conviction is for an offense involving sexual contact which does not include sexual penetration, the sexual contact must be scored in accordance with the sentence points provided under s. 921.0014 for sexual contact, ~~as a moderate injury~~ regardless of whether there is evidence of any physical injury. If the victim of an offense involving sexual contact suffers any physical injury as a direct result of the primary offense or any other offense committed by the offender resulting in conviction, such physical injury must be scored separately and in addition to the points scored for the sexual contact or the sexual penetration.

Section 53. Section 921.0012, Florida Statutes, is amended to read:

921.0012 Sentencing guidelines offense levels; offense severity ranking chart.—

(1) ~~The A single~~ offense severity ranking chart must be used *with the sentencing guidelines worksheet* to compute a sentence score for each felony offender.

(2) The offense severity ranking chart has 10 offense levels, ranked from least severe to most severe, and each felony offense is assigned to a level according to the severity of the offense. *For purposes of determining which felony offenses are specifically listed in the offense severity ranking chart and which severity level has been assigned to each of these offenses, the numerical statutory references in the left column of the chart and the felony degree designations in the middle column of the chart are controlling; the language in the right column of the chart is provided solely for descriptive purposes. Reclassification of the degree of the felony through the application of s. 775.0845, s. 775.087, s. 775.0875, s. 794.023, or s. 874.04 to any offense listed in the offense severity ranking chart in this section shall not cause the offense to become unlisted and is not subject to the provisions of s. 921.0013.*

### (3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
(a) LEVEL 1		
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2)(b)	3rd	Failure to remit sales taxes, amount greater than \$300 but less than \$20,000.
319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.
320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
322.212(1)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver's license.
322.212(4)	3rd	Supply or aid in supplying unauthorized driver's license.
322.212(5)	3rd	False application for driver's license.
370.13(4)(a)	3rd	Molest any stone crab trap, line, or buoy which is property of licenseholder.
370.135(1)	3rd	Molest any blue crab trap, line, or buoy which is property of licenseholder.
372.663(1)	3rd	Poach any alligator or crocodilia.
409 325(2)	3rd	Unauthorized use, possession, forgery, or alteration of food stamps, Medicaid ID, value greater than \$200
409 325(3)(a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.
443.071(1)	3rd	False statement or representation to obtain or increase unemployment compensation benefits.
458 327(1)(a)	3rd	Unlicensed practice of medicine.
466.026(1)(a)	3rd	Unlicensed practice of dentistry or dental hygiene.
509.151(1)	3rd	Defraud an innkeeper, food or lodging value greater than \$300.
517.302(1)	3rd	Violation of the Florida Securities and Investor Protection Act.
562.27(1)	3rd	Possess still or still apparatus.
713.69	3rd	Tenant removes property upon which lien has accrued, value more than \$50.
812.014(3)(c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).
812.081(2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
815.04(4)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).
817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.

Florida Statute	Felony Degree	Description	Florida Statute	Felony Degree	Description
826.01	3rd	Bigamy.	817.52(3)	3rd	Failure to redeliver hired vehicle.
828.122(3)	3rd	Fighting or baiting animals.	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.	817.60(5)	3rd	Dealing in credit cards of another.
831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.	817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
832.041(1)	3rd	Stopping payment with intent to defraud \$150 or more.	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
832.05			826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
(2)(b) & (4)(c)	3rd	Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.	831.01	3rd	Forgery.
838.015(3)	3rd	Bribery.	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
838.016(1)	3rd	Public servant receiving unlawful compensation.	831.07	3rd	Forging bank bills or promissory note.
838.15(2)	3rd	Commercial bribe receiving.	831.08	3rd	Possession of 10 or more forged notes.
838.16	3rd	Commercial bribery.	831.09	3rd	Uttering forged bills; passes as bank bill or promissory note.
843.18	3rd	Fleeing by boat to elude a law enforcement officer.	832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).	843.08	3rd	Falsely impersonating an officer.
849.01	3rd	Keeping gambling house.	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c), (3), or (4) drugs other than cannabis.
849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.	893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.
849.23	3rd	Gambling-related machines; "common offender" as to property rights.	39.061	3rd	(c) LEVEL 3 Escapes from juvenile facility (secure detention or residential commitment facility).
849.25(2)	3rd	Engaging in bookmaking.	319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
860.08	3rd	Interfere with a railroad signal.	319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
860.13(1)(a)	3rd	Operate aircraft while under the influence.	319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
893.13(2)(a)2.	3rd	Purchase of cannabis.	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
403.413(5)(c)	3rd	(b) LEVEL 2 Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.	501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
517.07	3rd	Registration of securities and furnishing of prospectus required.	697.08	3rd	Equity skimming.
590.28(1)	3rd	Willful, malicious, or intentional burning.	790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.	796.05(1)	3rd	Live on earnings of a prostitute.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.	806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.	806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.	810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or more but less than \$5,000.	812.014(2)(c)2.1.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
817.234(1)(a)2.	3rd	False statement in support of insurance claim.	815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.

Florida Statute	Felony Degree	Description	Florida Statute	Felony Degree	Description
817.233	3rd	Burning to defraud insurer.	810.06	3rd	Burglary; possession of tools.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.	810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
831.29	2nd	Possession of instruments for counterfeiting drivers' licenses.	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.	812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
843.19	3rd	Injure, disable, or kill police dog or horse.	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
870.01(2)	3rd	Riot; inciting or encouraging.	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs).	837.02(1)	3rd	Perjury in official proceedings.
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c), (3), or (4) drugs within 200 feet of university, public housing facility, or public park.	837.021(1)	3rd	Make contradictory statements in official proceedings.
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreatment or bond jumping).
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), or (2)(a) or (b) drugs).
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.	914.14(2)	3rd	Witnesses accepting bribes.
944.47 (1)(a)1.-2.	3rd	Introduce contraband to correctional facility.	914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
		(d) LEVEL 4	918.12(1), (2)	3rd	Tampering with or harassing jurors.
231.06(2)	3rd	Battery of school employee.	316.027(1)(a)	3rd	(e) LEVEL 5
240.381(2)	3rd	Battery of community college security officer.	316.1935(3)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer resulting in high-speed pursuit.	322.34(3)	3rd	Aggravated fleeing or eluding.
381.0025(4)(b)	3rd	Battery of HRS employee.	327.30(4)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
401.41(2)(b)	3rd	Battery on emergency medical services personnel.			<i>Vessel accidents involving personal injury; leaving scene.</i>
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
784.075	3rd	Battery on detention or commitment facility staff.	790.01(2)	3rd	Carrying a concealed firearm.
784.08(2)(c)	3rd	Battery on a person 65 years of age or older.	790.162	2nd	Threat to throw or discharge destructive device.
787.03(1)	3rd	Interference with custody; wrongly takes child from appointed guardian.	790.163	2nd	False report of deadly explosive.
787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.	790.164(1)	2nd	False report of deadly explosive or act of arson or violence to state property.
787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.	790.165(2)	3rd	Manufacture, sell, possess, or deliver hoax bomb.
790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.	790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.	790.23	2nd	Felons in possession of firearms or electronic weapons or devices.
790.115(2)(c)	3rd	Possessing firearm on school property.	806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
			827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
			843.01	3rd	Resist officer with violence to his person; resist arrest with violence.
			893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).

Florida Statute	Felony Degree	Description	Florida Statute	Felony Degree	Description
893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs) within 1,000 feet of a school.	918.12(3),(4)	2nd	Harassing or retaliating against juror, with bodily injury or credible threat.
893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 200 feet of university, public housing facility, or public park.	944.40	2nd	Escapes.
893.13(4)(b)	2nd	Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs).	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
944.35(3)	3rd	Inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.	944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
951.075	2nd	Prisoner commits assault or battery.	951.22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.
316.027(1)(b)	2nd	(f) LEVEL 6 Accident involving death, failure to stop; leaving scene.	316.193(3)(c)2.	3rd	(g) LEVEL 7 DUI resulting in serious bodily injury.
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
<del>775.087(3)(a)2.</del>		<del>Battery upon law enforcement officer or firefighter while possessing firearm.</del>	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
775.0875(1)	3rd	Taking firearm from law enforcement officer.	782.051(3)	2nd	Felony causing bodily injury; person injured by someone other than perpetrator; felony enumerated in s. 782.04(3).
784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.	782.071(1)	3rd	Killing of human being by the operation of a motor vehicle in a reckless manner (vehicular homicide).
784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.	782.072(1)	3rd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.048(3)	3rd	Aggravated stalking; credible threat.	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
790.115(2)(d)	2nd	Discharging firearm or weapon on school property.	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
794.05(1)	2nd	Unlawful carnal intercourse with unmarried person under 18 of previous chaste character.	796.03	2nd	Procuring any person under 16 years for prostitution.
806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.	800.04	2nd	Handle, fondle, or assault child under 16 years in lewd, lascivious, or indecent manner.
810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
812.014(2)(b)	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.	810.02(3)(d) (e)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
825.103(2)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.	812.014(2)(a)	1st	Property stolen, valued at \$100,000 or more; 1st degree grand theft.
827.071(2)&(3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
836.05	2nd	Threats; extortion.	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
836.10	2nd	Written threats to kill or do bodily injury.	825.102(2)	3rd	Abusing or neglecting an elderly person or disabled adult.
843.12	3rd	Aids or assists person to escape.			
914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.			

Florida Statute	Felony Degree	Description	Florida Statute	Felony Degree	Description
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.	827.03(2)	2nd	Commits aggravated battery on a child.
827.04(1)	3rd	Deprive child of necessities causing great bodily harm or disfigurement.	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
827.04(4)	3rd	<i>Impregnation of child under 16 years of age by person 21 years of age or older.</i>	860.16	1st	Aircraft piracy.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 1,000 feet of a school.	893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 50 lbs., less than 2,000 lbs.	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135(1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams	893.135(1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.	893.135(1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.	893.135(1)(d)2.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.	893.135(1)(e)2.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
		(h) LEVEL 8	893.135(1)(f)2.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
316.193(3)(c)3.	2nd	DUI manslaughter.	895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
777.03(2)(a)	1st	Accessory after the fact, capital felony.	895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.	895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
782.051(2)	1st	<i>Felony causing bodily injury; perpetrator injures victim; felony not enumerated in s. 782.04(3).</i>			(i) LEVEL 9
782.07(2)	1st	<i>Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter); failure to render aid or give information.</i>	316.193(3)(c)3.b.	1st	<i>DUI manslaughter; failing to render aid or give information.</i>
782.071(2)	2nd	Committing vehicular homicide and willfully failing to render aid or give information <del>stop; leaving scene.</del>	327.351(2)	1st	<i>Operating a vessel while intoxicated, resulting in death; failing to render aid or give information.</i>
782.072(2)	2nd	Committing vessel homicide and willfully failing to render aid or give information <del>stop; leaving scene.</del>	782.04(1)	1st	<i>Attempt, conspire, or solicit to commit Attempted premeditated murder.</i>
790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.	782.051(1)	1st,PBL	<i>Felony causing bodily injury; perpetrator injures victim; felony enumerated in s. 782.04(3).</i>
794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.	782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
810.02(2)(a)	1st,PBL	Burglary with assault or battery.	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
812.13(2)(b)	1st	Robbery with a weapon.	787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.
812.135(2)	1st	Home-invasion robbery.	790.161	1st	Attempted capital destructive device offense.
825.102(1)	2nd	Abusing or neglecting an elderly person or disabled adult and causes harm, disfigurement, or disability.	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
			794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.



Florida Statute	Felony Degree	Description
794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
859.01	1st	Poisoning food, drink, medicine, or water with intent to kill or injure another person.
893.135	1st	Attempted capital trafficking offense.
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135(1)(d)3.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135(1)(e)3.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135(1)(f)3.	1st	Trafficking in amphetamine, more than 200 grams.
782.04(2)(a)	1st,PBL	(j) LEVEL 10 Unlawful killing of human; act is homicide, unpremeditated.
782.04(2)(b)	Life	Unlawful killing of human; act is homicide, unpremeditated; failing to render aid or give information.
787.01(1)(a)3.	1st,PBL	Kidnapping; inflict bodily harm upon or terrorize victim.
787.01(3)(a)	Life	Kidnapping; child under age 13, perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.
794.011(3)	Life	Sexual battery; victim 12 years or older, offender uses or threatens to use deadly weapon or physical force to cause serious injury.
876.32	1st	Treason against the state.

Section 54. Section 921.0013, Florida Statutes, is amended to read:

921.0013 Sentencing guidelines; ranking unlisted felony offenses.— A felony offense not listed in s. 921.0012 is ranked with respect to offense severity level by the Legislature, commensurate with the harm or potential harm that is caused by the offense to the community. *Until Prior to the time the Legislature specifically assigns ranks an offense to a severity level in the offense severity ranking chart which has not been ranked, the severity level is within the following parameters:*

- (1) A felony of the third degree within offense level 1.
- (2) A felony of the second degree within offense level 4.
- (3) A felony of the first degree within offense level 7.
- (4) A felony of the first degree punishable by life within offense level 9.
- (5) A life felony within offense level 10.

*For purposes of determining whether a felony offense has been specifically listed in the offense ranking chart provided in s. 921.0012(3), and the severity level that has been assigned to an offense listed in the chart, the numerical statutory reference in the left column of the chart, and the*

*felony degree designation in the middle column of the chart, are controlling; the language in the right column of the chart is provided solely for descriptive purposes.*

Section 55. Subsection (1) of section 921.0014, Florida Statutes, is amended to read:

921.0014 Sentencing guidelines; worksheet computations; score-heets.—

(1)(a) The sentencing guidelines worksheet is used to compute the subtotal and total sentence points as follows:

#### FLORIDA SENTENCING GUIDELINES WORKSHEET OFFENSE SCORE

Level	Sentence Points	Primary Offense	Total
10	116	=	
9	92	=	
8	74	=	
7	56	=	
6	36	=	
5	28	=	
4	22	=	
3	16	=	
2	10	=	
1	4	=	

Level	Sentence Points	Additional Offenses	Counts	Total
10	58	x	=	
9	46	x	=	
8	37	x	=	
7	28	x	=	
6	18	x	=	
5	5.4	x	=	
4	3.6	x	=	
3	2.4	x	=	
2	1.2	x	=	
1	0.7	x	=	
M	0.2	x	=	

Level	Sentence Points	Victim Injury	Number	Total
2nd degree				
murder-death	240	x	=	
Death	120	x	=	
Severe	40	x	=	
Sexual				
penetration	80	x	=	
Moderate	18	x	=	
Sexual				
contact	40	x	=	
Slight	4	x	=	

Primary Offense + Additional Offenses + Victim Injury =  
TOTAL OFFENSE SCORE  
PRIOR RECORD SCORE

Level	Sentence Points	Prior Record	Number	Total
10	29	x	=	
9	23	x	=	
8	19	x	=	
7	14	x	=	
6	9	x	=	
5	3.6	x	=	
4	2.4	x	=	
3	1.6	x	=	
2	0.8	x	=	
1	0.5	x	=	
M	0.2	x	=	
				Total

TOTAL OFFENSE SCORE  
 TOTAL PRIOR RECORD SCORE  
 LEGAL STATUS  
 COMMUNITY SANCTION VIOLATION  
 PRIOR SERIOUS FELONY  
 PRIOR CAPITAL FELONY  
 FIREARM OR SEMIAUTOMATIC WEAPON  
 SUBTOTAL\_\_\_\_\_

VIOLENT CAREER CRIMINAL (no)(yes)  
 VIOLENT HABITUAL OFFENDER (no)(yes)  
 HABITUAL OFFENDER (no)(yes)  
 DRUG TRAFFICKER (no)(yes) (x multiplier)  
 LAW ENF. PROTECT. (no)(yes) (x multiplier)  
 MOTOR VEHICLE THEFT (no)(yes) (x multiplier)

#### TOTAL SENTENCE POINTS

##### (b) WORKSHEET KEY:

Legal status points are assessed when any form of legal status existed at the time the offender committed an offense before the court for sentencing. Four (4) sentence points are assessed for an offender's legal status.

Community sanction violation points are assessed when a community sanction violation is before the court for sentencing. Six (6) sentence points are assessed for each community sanction violation, and each successive community sanction violation; however, if the community sanction violation includes a new felony conviction before the sentencing court, twelve (12) community sanction violation points are assessed for such violation, and for each successive community sanction violation involving a new felony conviction.

Prior serious felony points: If the offender has a primary offense or any additional offense ranked in level 8, level 9, or level 10, and one or more prior serious felonies, a single assessment of an additional 30 points shall be added assessed. For purposes of this section, a prior serious felony is an offense in the offender's prior record that is ranked in level 8, level 9, or level 10 under s. 921.0012 or s. 921.0013 and for which the offender is serving a sentence of confinement, supervision, or other sanction or for which the offender's date of release from confinement, supervision, or other sanction, whichever is later, is has been found guilty, which was committed within 3 years before the date the primary offense or any additional offense was committed; and which is ranked in level 8, level 9, or level 10 under s. 921.0012 or s. 921.0013, or would be ranked in level 8, level 9, or level 10 under s. 921.0012 or s. 921.0013, if the offense were committed in this state.

Prior capital felony points: If the offender has one or more prior capital felonies, points shall be added to the subtotal sentence points of the offender equal to twice the number of points the offender receives for the primary offense and any additional offense. A prior capital felony is a capital felony an offense for which the offender has been found guilty; or a felony in another jurisdiction which is a capital felony in that jurisdiction, or would be a capital felony if the offense were committed in this state.

Possession of a firearm, semiautomatic firearm, or machine gun: If the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(2) while having in his possession: a firearm as defined in s. 790.001(6), an additional 18 sentence points are assessed; or if the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(3) while having in his possession a semiautomatic firearm as defined in s. 775.087(3) or a machine gun as defined in s. 790.001(9), an additional 25 sentence points are assessed.

##### Sentencing multipliers:

Drug trafficking: If the primary offense is drug trafficking under s. 893.135, the subtotal sentence points are multiplied, at the discretion of the court, for a level 7 or level 8 offense, by 1.5. The state attorney may move the sentencing court to reduce or suspend the sentence of a person convicted of a level 7 or level 8 offense, if the offender provides substantial assistance as described in s. 893.135(4).

Law enforcement protection: If the primary offense is a violation of the Law Enforcement Protection Act under s. 775.0823(2), the subtotal sentence points are multiplied by 2.5. If the primary offense is a violation

of s. 775.0823(3), (4), (5), (6), (7), or (8), the subtotal sentence points are multiplied by 2.0. If the primary offense is a violation of s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement Protection Act under s. 775.0823(9) or (10), then the subtotal sentence points are multiplied by 1.5.

Grand theft of a motor vehicle: If the primary offense is grand theft of the third degree involving a motor vehicle and in the offender's prior record, there are three or more grand thefts of the third degree involving a motor vehicle, the subtotal sentence points are multiplied by 1.5.

Section 56. Subsections (3), (4), (5), and (6) of section 921.141, Florida Statutes, are amended to read:

921.141 Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.—

(3) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—Notwithstanding the recommendation of a majority of the jury, the court, after weighing the aggravating and mitigating circumstances, shall enter a sentence of life imprisonment or death, but if the court imposes a sentence of death, it shall set forth in writing its findings upon which the sentence of death is based as to the facts:

(a) That sufficient aggravating circumstances exist as enumerated in subsection (5), and

(b) That there are insufficient mitigating circumstances to outweigh the aggravating circumstances.

In each case in which the court imposes the death sentence, the determination of the court shall be supported by specific written findings of fact based upon the circumstances in subsections (5) and (6) and upon the records of the trial and the sentencing proceedings. If the court does not make the findings requiring the death sentence within 30 days after the rendition of the judgment and sentence, the court shall impose sentence of life imprisonment in accordance with s. 775.082.

(4) REVIEW OF JUDGMENT AND SENTENCE.—The judgment of conviction and sentence of death shall be subject to automatic review by the Supreme Court of Florida and disposition rendered within 2 years 60 days after the filing of a notice of appeal certification by the sentencing court of the entire record, unless the time is extended for an additional period not to exceed 30 days by the Supreme Court for good cause shown. Such review by the Supreme Court shall have priority over all other cases and shall be heard in accordance with rules promulgated by the Supreme Court.

(5) AGGRAVATING CIRCUMSTANCES.—Aggravating circumstances shall be limited to the following:

(a) The capital felony was committed by a person under sentence of imprisonment or placed on community control or on probation.

(b) The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person.

(c) The defendant knowingly created a great risk of death to many persons.

(d) The capital felony was committed while the defendant was engaged, or was an accomplice, in the commission of, or an attempt to commit, or flight after committing or attempting to commit, any robbery, sexual battery, aggravated child abuse, arson, burglary, kidnapping, or aircraft piracy or the unlawful throwing, placing, or discharging of a destructive device or bomb.

(e) The capital felony was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.

(f) The capital felony was committed for pecuniary gain.

(g) The capital felony was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.

(h) The capital felony was especially heinous, atrocious, or cruel.

(i) The capital felony was a homicide and was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification.

(j) The victim of the capital felony was a law enforcement officer engaged in the performance of his official duties.

(k) The victim of the capital felony was an elected or appointed public official engaged in the performance of his official duties if the motive for the capital felony was related, in whole or in part, to the victim's official capacity.

(l) The victim of the capital felony was a person less than 12 years of age.

(m) *The victim of the capital felony was an elderly person or disabled adult, as defined in s. 825.101, or because the defendant stood in a position of familial or custodial authority over the victim.*

(n) *The capital felony was committed by a criminal street gang member, as defined in s. 874.03.*

(6) MITIGATING CIRCUMSTANCES.—Mitigating circumstances shall be the following:

(a) The defendant has no significant history of prior criminal activity.

(b) The capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance.

(c) The victim was a participant in the defendant's conduct or consented to the act.

(d) The defendant was an accomplice in the capital felony committed by another person and his participation was relatively minor.

(e) The defendant acted under extreme duress or under the substantial domination of another person.

(f) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired.

(g) The age of the defendant at the time of the crime.

(h) *The existence of any other factors in the defendant's background that would mitigate against imposition of the death penalty.*

Section 57. Subsections (4) and (5) of section 921.142, Florida Statutes, are amended to read:

921.142 Sentence of death or life imprisonment for capital drug trafficking felonies; further proceedings to determine sentence.—

(4) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—Notwithstanding the recommendation of a majority of the jury, the court, after weighing the aggravating and mitigating circumstances, shall enter a sentence of life imprisonment or death, but if the court imposes a sentence of death, it shall set forth in writing its findings upon which the sentence of death is based as to the facts:

(a) That sufficient aggravating circumstances exist as enumerated in subsection (6), and

(b) That there are insufficient mitigating circumstances to outweigh the aggravating circumstances.

In each case in which the court imposes the death sentence, the determination of the court shall be supported by specific written findings of fact based upon the circumstances in subsections (6) and (7) and upon the records of the trial and the sentencing proceedings. If the court does not make the findings requiring the death sentence *within 30 days after the rendition of the judgment and sentence*, the court shall impose sentence of life imprisonment in accordance with s. 775.082, and that person shall be ineligible for parole.

(5) REVIEW OF JUDGMENT AND SENTENCE.—The judgment of conviction and sentence of death shall be subject to automatic review and disposition rendered by the Supreme Court of Florida within 2 years 60 days after the filing of a notice of appeal certification by the sentencing court of the entire record, unless the time is extended for an additional period not to exceed 30 days by the Supreme Court for good cause shown. Such review by the Supreme Court shall have priority over all

other cases and shall be heard in accordance with rules promulgated by the Supreme Court.

Section 58. Subsections (1) and (2) of section 921.143, Florida Statutes, are amended to read:

921.143 Appearance of victim or next of kin to make statement at sentencing hearing; submission of written statement.—

(1) At the sentencing hearing, and prior to the imposition of sentence upon any defendant who has been convicted of any felony or who has pleaded guilty or nolo contendere to any crime, including a criminal violation of a provision of chapter 316, the sentencing court shall permit the victim of the crime for which the defendant is being sentenced, or the next of kin of the victim if the victim has died from causes related to the crime, to:

(a) Appear before the sentencing court for the purpose of making a statement under oath for the record; *and* ~~or~~

(b) Submit a written statement under oath to the office of the state attorney, which statement shall be filed with the sentencing court.

(2) The state attorney or any assistant state attorney shall advise all victims or, when appropriate, their next of kin that statements, whether oral or written, shall relate solely to the facts of the case and the extent of any harm, including social, psychological, or physical harm, financial losses, ~~and~~ loss of earnings directly or indirectly resulting from the crime for which the defendant is being sentenced, *and any matter relevant to an appropriate disposition and sentence.*

Section 59. Subsection (1) of section 921.187, Florida Statutes, is amended to read:

921.187 Disposition and sentencing; alternatives; restitution.—

(1) The alternatives provided in this section for the disposition of criminal cases shall be used in a manner *that* ~~which~~ will best serve the needs of society, ~~which will~~ punish criminal offenders, and ~~which will~~ provide the opportunity for rehabilitation.

(a) If the offender does not receive a state prison sentence, ~~the~~ a court may:

1. Impose a split sentence whereby the offender is to be placed on probation upon completion of any specified period of such sentence, which period may include a term of years or less.

2. Make any other disposition that is authorized by law.

3. Place the offender on probation with or without an adjudication of guilt pursuant to s. 948.01.

4. Impose a fine and probation pursuant to s. 948.011 when the offense is punishable by both a fine and imprisonment and probation is authorized.

5. Place the offender into community control requiring intensive supervision and surveillance pursuant to chapter 948.

6. Impose, as a condition of probation or community control, a period of treatment which shall be restricted to a county facility, a Department of Corrections probation and restitution center, a probation program drug punishment treatment community, or a community residential or nonresidential facility, excluding a community correctional center as defined in s. 944.026, which is owned and operated by any qualified public or private entity providing such services. Before admission to such a facility, the court shall obtain an individual assessment and recommendations on the appropriate treatment needs, which shall be considered by the court in ordering such placements. Placement in such a facility, except for a county residential probation facility, may not exceed 364 days. Placement in a county residential probation facility may not exceed 3 years. Early termination of placement may be recommended to the court, when appropriate, by the center supervisor, the supervising probation officer, or the probation program manager.

7. Sentence the offender pursuant to s. 922.051 to imprisonment in a county jail when a statute directs imprisonment in a state prison, if the offender's cumulative sentence, whether from the same circuit or from separate circuits, is not more than 364 days.

8. Sentence the offender who is to be punished by imprisonment in a county jail to a jail in another county if there is no jail within the county suitable for such prisoner pursuant to s. 950.01.

9. Require the offender to participate in a work-release or educational or vocational training program pursuant to s. 951.24 while serving a sentence in a county jail, if such a program is available.

10. Require the offender to perform a specified public service pursuant to s. 775.091.

11. Require the offender who violates chapter 893 or violates any law while under the influence of a controlled substance or alcohol to participate in a substance abuse program.

12.a. Require the offender who violates any criminal provision of chapter 893 to pay an additional assessment in an amount up to the amount of any fine imposed, pursuant to ss. 893.13(8)(a) and 893.16.

b. Require the offender who violates any provision of s. 893.13 to pay an additional assessment in an amount of \$100, pursuant to ss. 893.13(8)(b) and 943.361.

13. Impose a split sentence whereby the offender is to be placed in a county jail or county work camp upon the completion of any specified term of community supervision.

14. Impose split probation whereby upon satisfactory completion of half the term of probation, the Department of Corrections may place the offender on administrative probation pursuant to s. 948.01 for the remainder of the term of supervision.

15. Require residence in a state probation and restitution center or private drug treatment program for offenders on community control or offenders who have violated conditions of probation.

16. Impose any other sanction which is provided within the community and approved as an intermediate sanction by the county public safety coordinating council as described in s. 951.26.

17. Impose, as a condition of community control, probation, or probation following incarceration, a requirement that an offender who has not obtained a high school diploma or high school equivalency diploma or who lacks basic or functional literacy skills, upon acceptance by an adult education program, make a good faith effort toward completion of such basic or functional literacy skills or high school equivalency diploma, as defined in s. 229.814, in accordance with the assessed adult general education needs of the individual offender.

(b)1. Notwithstanding any provision of s. 921.001 to the contrary, on or after October 1, 1993, *the court may* require any defendant who violates s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), and meets the criteria described in s. 893.13(10), to successfully complete a term of probation pursuant to the terms and conditions set forth in s. 948.034(1), in lieu of serving a term of imprisonment.

2. Notwithstanding any provision of s. 921.001 to the contrary, on or after October 1, 1993, *the court may* require any defendant who violates s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), and meets the criteria described in s. 893.13(11), to successfully complete a term of probation pursuant to the terms and conditions set forth in s. 948.034(2), in lieu of serving a term of imprisonment.

Section 60. Section 922.095, Florida Statutes, is created to read:

922.095 Grounds for death warrant.—A person who is convicted and sentenced to death must pursue all possible collateral remedies in state and federal court in a timely manner. If any court refuses to grant relief in a collateral postconviction proceeding, the convicted person has 90 days in which to seek further collateral review. Failure to seek further collateral review within the 90-day period constitutes grounds for issuance of a death warrant under s. 922.09 or s. 922.14.

Section 61. The Division of Statutory Revision of the Joint Legislative Management Committee shall change the title of chapter 924, Florida Statutes, from "APPEALS" to "CRIMINAL APPEALS AND COLLATERAL REVIEW."

Section 62. Section 924.05, Florida Statutes, is amended to read:

924.05 Appeal as matter of right —*Direct* appeals provided for in this chapter are a matter of right

Section 63. Section 924.051, Florida Statutes, is created to read:

924.051 Terms and conditions of appeals and collateral review in criminal cases.—

(1) As used in this section:

(a) "Prejudicial error" means an error in the trial court that harmfully affected the judgment or sentence.

(b) "Preserved" means that an issue, legal argument, or objection to evidence was timely raised before, and ruled on by, the trial court, and that the issue, legal argument, or objection to evidence was sufficiently precise that it fairly apprised the trial court of the relief sought and the grounds therefor.

(2) The right to direct appeal and the provisions for collateral review created in this chapter may only be implemented in strict accordance with the terms and conditions of this section.

(3) An appeal may not be taken from a judgment or order of a trial court unless a prejudicial error is alleged and is properly preserved or, if not properly preserved, would constitute fundamental error. A judgment or sentence may be reversed on appeal only when an appellate court determines after a review of the complete record that prejudicial error occurred and was properly preserved in the trial court or, if not properly preserved, would constitute fundamental error.

(4) If a defendant pleads *nolo contendere* without expressly reserving the right to appeal a legally dispositive issue, or if a defendant pleads guilty without expressly reserving the right to appeal a legally dispositive issue, the defendant may not appeal the judgment or sentence.

(5) Collateral relief is not available on grounds that were or could have been raised at trial and, if properly preserved, on direct appeal of the conviction and sentence.

(6) A petition or motion for collateral or other postconviction relief may not be considered if it is filed more than 2 years after the judgment and sentence became final in a noncapital case or more than 1 year after the judgment and sentence became final in a capital case in which a death sentence was imposed unless it alleges that:

(a) The facts upon which the claim is predicated were unknown to the petitioner or his attorney and could not have been ascertained by the exercise of due diligence;

(b) The fundamental constitutional right asserted was not established within the period provided for in this subsection and has been held to apply retroactively; or

(c) The sentence imposed was illegal because it either exceeded the maximum or fell below the minimum authorized by statute for the criminal offense at issue. Either the state or the defendant may petition the trial court to vacate an illegal sentence at any time.

(7) In a direct appeal or a collateral proceeding, the party challenging the judgment or order of the trial court has the burden of demonstrating that a prejudicial error occurred in the trial court. A conviction or sentence may not be reversed absent an express finding that a prejudicial error occurred in the trial court.

(8) It is the intent of the Legislature that all terms and conditions of direct appeal and collateral review be strictly enforced, including the application of procedural bars, to ensure that all claims of error are raised and resolved at the first opportunity. It is also the Legislature's intent that all procedural bars to direct appeal and collateral review be fully enforced by the courts of this state.

(9) Funds, resources, or employees of this state or its political subdivisions may not be used, directly or indirectly, in appellate or collateral proceedings unless the use is constitutionally or statutorily mandated.

Section 64. Section 924.055, Florida Statutes, is created to read:

924.055 Time limitations for postconviction proceedings in capital cases.—

(1) The Legislature recognizes that unjustified delay in postconviction proceedings in capital cases frustrates justice and diminishes public confidence in the criminal justice system. It is the intent of the Legislature that postconviction proceedings in capital cases progress in a fair but timely fashion and that, absent extreme circumstances, the participants in such proceedings abide by the time limitations set forth in this section.

(2) Within 1 year after the date the Supreme Court issues a mandate on a direct appeal or the United States Supreme Court denies a petition for certiorari, whichever is later, all postconviction motions and petitions that challenge the judgment, sentence, or appellate decision must be filed in the appropriate court.

(3) Within 90 days after the date the state files a response to a postconviction motion that challenges the judgment or sentence, the circuit court shall conduct all necessary hearings and render a decision.

(4) Within 200 days after the date a notice is filed appealing an order of the trial court or an extraordinary writ is filed in a postconviction proceeding, the Supreme Court shall render a decision.

(5) A convicted person must file any petition for habeas corpus in the district court of the United States within 90 days after the date the Supreme Court issues a mandate in a postconviction proceeding.

Section 65. Section 924.06, Florida Statutes, is amended to read:

924.06 Appeal by defendant.—

(1) A defendant may appeal from:

(a) A final judgment of conviction when probation has not been granted under chapter 948, except as provided in subsection (3);

(b) An order granting probation under chapter 948;

(c) An order revoking probation under chapter 948;

(d) A sentence, on the ground that it is illegal; or

(e) A sentence imposed outside the range *permitted* ~~recommended~~ by the guidelines authorized by chapter 921.

(2) An appeal of an order granting probation shall proceed in the same manner and have the same effect as an appeal of a judgment of conviction. An appeal of an order revoking probation may review only proceedings after the order of probation. If a judgment of conviction preceded an order of probation, the defendant may appeal from the order or the judgment or both.

(3) A defendant who pleads guilty *with no express reservation of the right to appeal a legally dispositive issue*, or a defendant who pleads nolo contendere with no express reservation of the right to appeal a *legally dispositive issue*, shall have no right to a direct appeal. ~~Such a defendant shall obtain review by means of collateral attack.~~

Section 66. Section 924.066, Florida Statutes, is created to read:

924.066 Collateral relief.—

(1) Subject to the terms and conditions set forth in this chapter, a prisoner in custody may seek relief based upon claims that the judgment of conviction or sentence was imposed in violation of the Constitution or law of the United States or the State of Florida.

(2) Either the state or a prisoner in custody may obtain review in the next higher state court of a trial court's adverse ruling granting or denying collateral relief. The state may obtain review of any trial court ruling that fails to enforce a procedural bar.

(3) A person in a noncapital case who is seeking collateral review under this chapter has no right to a court-appointed lawyer.

Section 67. Section 924.07, Florida Statutes, is amended to read:

924.07 Appeal by state.—

(1) The state may appeal from:

(a) An order dismissing an indictment or information or any count thereof or dismissing an affidavit charging the commission of a criminal offense, the violation of probation, the violation of community control, or the violation of any supervised correctional release.

(b) An order granting a new trial.

(c) An order arresting judgment.

(d) A ruling on a question of law when the defendant is convicted and appeals from the judgment. Once the state's cross-appeal is instituted, the appellate court shall review and rule upon the question raised by the state regardless of the disposition of the defendant's appeal.

(e) The sentence, on the ground that it is illegal.

(f) A judgment discharging a prisoner on habeas corpus.

(g) An order adjudicating a defendant insane under the Florida Rules of Criminal Procedure.

(h) All other pretrial orders, except that it may not take more than one appeal under this subsection in any case.

(i) A sentence imposed outside the range *permitted* ~~recommended~~ by the guidelines authorized by chapter 921.

(j) A ruling granting a motion for judgment of acquittal after a jury verdict.

(k) An order denying restitution under s. 775.089.

(l) An order or ruling suppressing evidence or evidence in limine at trial.

(2) An appeal under this section *must* ~~shall~~ embody all assignments of error in each pretrial order that the state seeks to have reviewed. The state shall pay all costs of ~~the~~ *such* appeal except for the defendant's attorney's fee.

Section 68. Section 924.37, Florida Statutes, is amended to read:

924.37 Order or decision when state appeals.—

(1) When the state appeals from an order dismissing an indictment, information, or affidavit, or a count of it, or an order granting a new trial and the order is affirmed, the appellate court shall direct the trial court to implement the order. If an order dismissing an indictment, information, or affidavit, or a count of it, is reversed, the appellate court shall direct the trial court to permit the defendant to be tried on the reinstated indictment, information, or affidavit. If an order granting a new trial is reversed, the appellate court shall direct that judgment of conviction be entered against the defendant.

(2) A cross-appeal by the state is not jurisdictional. When the state cross-appeals ~~appeals~~ from a ruling on a question of law adverse to the state, the appellate court shall decide the question *if it is reasonably capable of repetition in any proceeding*.

Section 69. Section 933.09, Florida Statutes, is amended to read:

933.09 Officer may break open door, etc., to execute warrant.—

(1) The officer may break open any outer door, inner door, or window of a house, or any part of a house or anything therein, to execute the warrant, if, after due notice of his authority and purpose, he is refused admittance to ~~the said~~ house or access to anything ~~in the house~~ *therein*.

(2) *Notwithstanding subsection (1), the officer may break open any outer door, inner door, or window of a house, or any part of a house or anything therein, without prior notice of authority and purpose and without prior refusal of admittance if the judge or magistrate who issues the warrant authorizes such entry in the warrant. The warrant must specifically delineate the officer's authority to enter the house, or any part of the house, without prior notice or refusal of admittance and must be based on an application that specifies exigent circumstances demonstrating that there is probable cause to believe evidence or contraband would be destroyed or the safety of the officer would be unreasonably endangered were notice given prior to entry into the house or any part of the house.*

Section 70. Subsections (2), (3), and (4) of section 937.024, Florida Statutes, are amended to read:

**937.024 Birth records of missing children; registrars' duties.—**

(2)(a) ~~Neither the State Registrar nor any local registrar shall provide, in response to any inquiry, a copy of the birth certificate or information concerning the birth record of any child whose record has been flagged or recalled pursuant to paragraph (1)(c) or paragraph (1)(d) may not be provided by the State Registrar or any local registrar in response to any inquiry, unless the flag has been removed pursuant to paragraph (1)(e).~~ A copy of the birth certificate or information concerning the birth record of any child whose record has been flagged or recalled pursuant to paragraph (1)(c) or paragraph (1)(d) may not be provided by the State Registrar or any local registrar in response to any inquiry, unless the flag has been removed pursuant to paragraph (1)(e).

(b) When a copy of the birth certificate or information concerning the birth record of a child whose record has been flagged or recalled is requested in person, the person accepting the request shall immediately notify his or her supervisor. The person making the request shall complete a form supplying his or her name, address, telephone number, social security number, and relationship to the missing child and the name, address, and birth date of the missing child. The driver's license of the person making the request, if available, or some other proper form of identification, shall be photocopied and returned to the person ~~him~~. The person He shall be informed that a copy of the certificate will be delivered to the person by mail ~~mailed to him~~. The registrar's personnel shall note the physical description of the person making the request, and, when the person leaves upon the latter's departure from the registrar's office, the supervisor shall immediately notify the Department of Law Enforcement's Missing Children Information Clearinghouse, which must then notify the local law enforcement agency of ~~as to~~ the request and the information obtained under pursuant to this paragraph. The registrar shall retain the form completed by the person making the request.

(c) When a copy of the birth certificate of a child whose record has been flagged or recalled is requested in writing, the person receiving the request shall immediately notify his or her supervisor. The supervisor shall immediately notify the Department of Law Enforcement's Missing Children Information Clearinghouse, which must then notify the local law enforcement agency of ~~as to~~ the request. If requested, the registrar ~~and~~ shall provide a copy of the written request to law enforcement. The registrar shall retain the original written request.

(3) ~~Nothing in~~ This section does not shall preclude the Office of Vital Statistics from flagging and recalling birth certificates or birth records of children reported missing directly to the office by a local law enforcement agency or ~~nor~~ from removing such flags from certificates or records based upon notification from the Department of Law Enforcement's Missing Children Information Clearinghouse or ~~of~~ local law enforcement.

(4) Upon notification by a local law enforcement agency or by the Department of Law Enforcement ~~Enforcement's Florida Crime Information Center~~ that a child born outside the state is missing, the State Registrar of Vital Statistics shall notify the corresponding officer in the state where the child was born that the child has been reported missing.

**Section 71. Section 937.025, Florida Statutes, is created to read:**

**937.025 Missing children; student records; reporting requirements; penalties.—**

(1) Notwithstanding any law that provides for the confidentiality of student records maintained by a public or private school, upon notification by the Department of Law Enforcement that a child is listed or reported as a missing child, the school in which the child is currently enrolled, or was previously enrolled, shall flag the student records in such a manner that whenever a copy of or information concerning the records of the missing child is requested, the person authorized to provide such copy or information is alerted to the fact that the child has been listed or reported as missing.

(2) The school shall immediately report to the local law enforcement agency and the Department of Law Enforcement any request concerning flagged student records, and shall report any information regarding the request that may assist law enforcement agencies in locating the missing child.

(3) The school or any employee of the school who provides such notification and information in good faith is immune from civil liability for reporting and providing the information.

(4) Upon notification by the Department of Law Enforcement that the records no longer need to be flagged, the school shall remove the flag from the student records.

(5) Notwithstanding any other law, an employee of the state or a local governmental agency, a person who is employed under a contract with the state or a local governmental agency, or an employee of a public or private school within the state shall promptly report to the local law enforcement agency and the Department of Law Enforcement any information received or possessed that could assist in:

(a) Locating a child who has been reported as missing.

(b) Ascertaining the identity of the person who has actual custody of a missing child.

(c) Determining whether a missing child is in danger of physical injury or death.

(6) Any person who makes a report in good faith to a law enforcement agency as required by this section is immune from civil liability for such action.

(7) A person who knowingly provides false information concerning a missing child or the efforts to locate and return a missing child to a parent, family member, or guardian of a child who has been reported missing commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

**Section 72. Section 939.155, Florida Statutes, is created to read:**

**939.155 Defendant's liability for certain defense-related costs.—**Notwithstanding any provision of law to the contrary, a defendant in a criminal prosecution who retains private counsel before filing an affidavit for determination of indigency pursuant to s. 27.52 shall be liable for all defense-related costs which would otherwise be paid by the county or state upon determination of indigency, including, but not limited to, costs of depositions, expert witnesses, travel expenses, psychiatric examinations, couriers, and appeals, unless the defendant provides the court and the prosecutor with a full and detailed financial statement and answers any question regarding the defendant's finances which is legally posed by the presiding judge or prosecutor.

**Section 73. Section 940.03, Florida Statutes, is amended to read:**

**940.03 Application for executive clemency.—**When any person intends to apply for remission of any fine or forfeiture or the commutation of any punishment, or for pardon or restoration of civil rights, he shall request an application form from the Parole Commission in compliance with such rules regarding application for executive clemency as are adopted by the Governor with the approval of three members of the Cabinet. Such application may require the submission of a certified copy of the applicant's indictment or information, the judgment adjudicating the applicant to be guilty, and the sentence, if sentence has been imposed, and may also require the applicant to send a copy of the application to the judge and prosecuting attorney of the court in which the applicant was convicted, notifying them of the applicant's intent to apply for executive clemency. *An application for executive clemency for a person who is sentenced to death must be filed within 1 year after the date the Supreme Court issues a mandate on a direct appeal or the United States Supreme Court denies a petition for certiorari, whichever is later.*

**Section 74. Paragraphs (b) and (d) of subsection (4) of section 944.275, Florida Statutes, are amended to read:**

**944.275 Gain-time.—**

(4)

(b) For each month in which an inmate works diligently, participates in training, uses time constructively, or otherwise engages in positive activities, the department may grant incentive gain-time in accordance with this paragraph. The rate of incentive gain-time in effect on the date the inmate committed the offense which resulted in his or her incarceration shall be the inmate's rate of eligibility to earn incentive gain-time throughout the period of incarceration and shall not be altered by a subsequent change in the severity level of the offense for which the inmate was sentenced.



1. For sentences imposed for offenses committed prior to January 1, 1994, up to 20 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

2. For sentences imposed for offenses committed on or after January 1, 1994, and before October 1, 1995:

a. For offenses ranked in offense severity levels 1 through 7, under s. 921.0012 or s. 921.0013, up to 25 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

b. For offenses ranked in offense severity levels 8, 9, and 10, under s. 921.0012 or s. 921.0013, up to 20 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

3. For sentences imposed for offenses committed on or after October 1, 1995, the department may grant up to 10 days per month of incentive gain-time, except that no prisoner is eligible to earn any type of gain-time in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, prior to serving a minimum of 85 percent of the sentence imposed. *For purposes of this subparagraph, credits awarded by the court for time physically incarcerated shall be credited toward satisfaction of 85 percent of the sentence imposed.* Except as provided by this section, a prisoner shall not accumulate further gain-time awards at any point when the tentative release date is the same as that date at which the prisoner will have served 85 percent of the sentence imposed. State prisoners sentenced to life imprisonment shall be incarcerated for the rest of their natural lives, unless granted pardon or clemency.

(d) Notwithstanding *subparagraphs (b)1. and 2. paragraph (b) and subparagraph (c)1.*, the education program manager shall recommend, and the Department of Corrections may grant, a one-time award of 60 additional days of incentive gain-time to an inmate who is otherwise eligible and who successfully completes requirements for and is awarded a general educational development certificate or vocational certificate. Under no circumstances may an inmate receive more than 60 days for educational attainment pursuant to this section.

Section 75. Subsections (2) and (7) of section 947.1405, Florida Statutes, are amended to read:

947.1405 Conditional release program.—

(2) Any inmate who:

(a) Is convicted of a crime committed on or after October 1, 1988, and before January 1, 1994, and any inmate who is convicted of a crime committed on or after January 1, 1994, which crime is or was contained in category 1, category 2, category 3, or category 4 of Rule 3.701 and Rule 3.988, Florida Rules of Criminal Procedure (1993), and who has served at least one prior felony commitment at a state or federal correctional institution;

(b) Is sentenced as a habitual or violent habitual offender pursuant to s. 775.084; or

(c) Is found to be a sexual predator under *former s. 775.23 or s. 775.21*,

shall, upon reaching the tentative release date or provisional release date, whichever is earlier, as established by the Department of Corrections, be released under supervision subject to specified terms and conditions, including payment of the cost of supervision pursuant to s. 948.09. Effective July 1, 1994, and applicable for offenses committed on or after that date, the commission may require, as a condition of conditional release, that the releasee make payment of the debt due and owing to a county or municipal detention facility under s. 951.032 for medical care, treatment, hospitalization, or transportation received by the releasee while in that detention facility. The commission, in determining whether to order such repayment and the amount of such repayment, shall consider the amount of the debt, whether there was any fault of the institution for the medical expenses incurred, the financial resources of the releasee, the present and potential future financial needs and earning ability of the releasee, and dependents, and other appropriate factors. If an inmate has received a term of probation or community control supervision to be served after release from incarceration, the period of

probation or community control must be substituted for the conditional release supervision. A panel of no fewer than two commissioners shall establish the terms and conditions of any such release. If the offense was a controlled substance violation, the conditions shall include a requirement that the offender submit to random substance abuse testing intermittently throughout the term of conditional release supervision, upon the direction of the correctional probation officer as defined in s. 943.10(3). The commission shall also determine whether the terms and conditions of such release have been violated and whether such violation warrants revocation of the conditional release.

(7) Any inmate who is convicted of a crime committed on or after October 1, 1995, or has been previously convicted of a crime committed on or after October 1, 1995, and who meets the criteria of *former s. 775.23(2)(a) or (b) or s. 775.21* shall have, in addition to any other conditions imposed, the following special conditions imposed by the commission:

(a) A curfew, if appropriate, during hours set by the commission.

(b) If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, day care center, park, playground, or other place where children regularly congregate.

(c) Active participation in and successful completion of a sex offender treatment program, at the releasee's own expense, unless one is not available within a 50-mile radius of the releasee's residence.

(d) A prohibition on any contact with the victim, directly or indirectly, including through a third person, unless approved by the commission.

(e) If the victim was under the age of 18, a prohibition, until successful completion of a sex offender treatment program, on unsupervised contact with a child under the age of 18, unless authorized by the commission without another adult present who is responsible for the child's welfare, has been advised of the crime, and is approved by the commission.

(f) If the victim was under age 18, a prohibition on working for pay or as a volunteer at any school, day care center, park, playground, or other place where children regularly congregate, as prescribed by the commission.

(g) Unless otherwise indicated in the treatment plan provided by the sexual offender treatment program, a prohibition on viewing, owning, or possessing any obscene, pornographic, or sexually explicit material.

(h) A requirement that the releasee must submit two specimens of blood to the Florida Department of Law Enforcement to be registered with the DNA data base ~~bank~~.

Section 76. Rules 3.150, 3.151, 3.152, and 3.191, Florida Rules of Criminal Procedure, are repealed.

Section 77. Category II of the Schedule of Lesser Included Offenses, adopted by the Florida Supreme Court, is repealed.

Section 78. Rule 8.090, Florida Rules of Juvenile Procedure, is repealed.

Section 79. The application of section 921.001(9)(b), Florida Statutes, is specifically abrogated with respect to this act.

Section 80. Section 939.155, Florida Statutes, is created to read:

939.155 Defendant's liability for certain defense-related costs.—Notwithstanding any provision of law to the contrary, a defendant in a criminal prosecution who retains private counsel before filing an affidavit for determination of indigency pursuant to s. 27.52 shall be liable for all defense-related costs which would otherwise be paid by the county or state upon determination of indigency, including, but not limited to, costs of depositions, expert witnesses, travel expenses, psychiatric examinations, couriers, and appeals, unless the defendant provides the court and the prosecutor with a full and detailed financial statement and answers any question regarding the defendant's finances which is legally posed by the presiding judge or prosecutor.

Section 81. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect

other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 82. This act shall take effect October 1, 1996, but sections 81, 82, and 83 of this act shall take effect only if this act is enacted by a two-thirds vote of the membership of each house of the Legislature.

And the title is amended as follows:

On page 44, line 21 through page 46, line 22, of the amendment, delete those lines and insert: A bill to be entitled An act relating to criminal justice reform; amending s. 16.56, F.S.; authorizing the Office of State-wide Prosecution within the Department of Legal Affairs to investigate and prosecute specified computer pornography and child-exploitation offenses and other related offenses; amending s. 27.52, F.S., relating to determination of indigency; requiring a nonindigent parent or guardian to furnish a minor dependent with legal services and costs incident to the prosecution of the child as an adult; deleting the monetary amount for which a parent or guardian of a minor child is liable; amending s. 27.7001, F.S.; providing legislative intent to restrict scope of collateral representation provided in capital cases; amending s. 27.702, F.S.; deleting provisions limiting capital collateral representation to indigent persons; providing requirements for the capital collateral representative with respect to filing notices and securing files; authorizing the court to appoint or permit counsel other than the capital collateral representative to appear as counsel of record; amending s. 27.703, F.S.; providing for substitute counsel to be paid from funds appropriated to the Justice Administrative Commission; amending s. 39.048, F.S.; deleting provisions that provide for dismissal with prejudice if an adjudicatory hearing for a juvenile offender is not held within a specified time; providing for the release of the juvenile until such adjudicatory hearing is complete; amending s. 39.052, F.S.; providing that a nonindigent parent or guardian is liable for certain fees and costs incident to the criminal prosecution of the child; creating s. 90.4025, F.S.; providing for admissibility of paternity in certain proceedings; amending s. 119.07, F.S., relating to public records; providing legislative intent with respect to discovery in collateral postconviction proceedings; amending ss. 316.193, 327.351, F.S.; providing an enhanced penalty for the offense of DUI manslaughter that is the result of operating a motor vehicle or vessel if the person knew, or should have known, that the accident occurred and failed to give information and render aid; amending ss. 382.014 and 382.025, F.S.; providing exceptions from certain confidentiality provisions; requiring the development of a protocol for sharing birth certificate information for certain children under certain circumstances; amending s. 415.504, F.S.; requiring the Department of Health and Rehabilitative Services to provide the local sheriff's office with reports of child abuse involving impregnation of a child under 16 years of age by a person 21 years of age or older; providing that two or more offenses that are similar, based on the same act, or part of a common scheme or plan be part of the same indictment or information; providing that two or more defendants who have participated in the same act or series of acts be charged in the same indictment or information; providing that related offenses be consolidated for the purpose of trial; providing for the dismissal of related offenses after trial; providing circumstances under which the court may sever charges that are part of a single indictment or information; providing circumstances under which the court may order the severance of defendants and provide for separate trials; amending s. 775.021, F.S.; clarifying legislative intent with respect to criminal offenses that constitute one criminal episode or transaction; defining the term "necessary lesser included offense" for purposes of such clarification; providing for imposition of consecutive sentences notwithstanding specified provisions relating to habitual offenders; providing for imposition of consecutive mandatory minimum terms of incarceration, limitations on release, and other mandatory minimum punishments; reenacting ss. 790.1615(3) and 806.031(3), F.S., relating to penalties for unlawful throwing, projecting, placing, or discharging of destructive device or bomb that results in injury to another, and relating to penalties for arson resulting in injury to another, to incorporate said amendment in references; amending s. 775.084, F.S.; providing that as part of the criteria for qualifying as a habitual felony offender, habitual violent felony offender, or violent career criminal, that the offender has committed an offense within 5 years of a prior qualifying felony conviction, within 5 years of the date of completion of the offender's sentence, supervision, or commitment for a prior qualifying felony conviction, or while the offender is in custody or under supervision for such sentence, supervision, or commitment; clarifying procedures for sentencing a defendant as a habitual felony offender, a habitual violent felony offender, or a violent career criminal;

clarifying when a habitual felony offender, a habitual violent felony offender, or a violent career criminal is subject to imprisonment; clarifying terms of imprisonment; providing that a defendant sentenced as a violent career criminal is not eligible for any form of discretionary release, except pardon, executive clemency, or conditional medical release; reenacting s. 790.235(1), (2), F.S., relating to unlawful possession of a firearm by a violent career criminal, to incorporate the amendment to s. 775.084, F.S., in references; amending s. 775.0842; correcting grammar; amending s. 775.087, F.S.; providing that a defendant convicted of a felony that involved the use of a weapon or firearm is not eligible for any form of discretionary early release, except pardon, executive clemency, or conditional medical release, or gain-time prior to serving the minimum sentence; amending s. 775.0875, F.S.; correcting a cross-reference; amending s. 775.13, F.S., relating to registration of convicted felons, to provide an exception for felons registered as sexual predators; amending s. 775.21, F.S.; providing a short title; providing definitions; providing legislative findings and purpose and legislative intent; providing criteria for sexual predator designation, registration, and community and public notification requirements; requiring sexual predator registration and community and public notification; providing that a "sexual predator" is a person found by the court to be a sexual predator based on an offense committed on or after October 1, 1993, and before October 1, 1996, or a person who meets the criteria pursuant to s. 775.21, F.S., based on an offense committed on or after October 1, 1996; providing for immunity under certain circumstances; providing a penalty for certain sexual predators who work in situations involving children; repealing ss. 775.22, 775.225, 775.23, F.S., relating to sexual predator registration, public notice of presence of sexual predator, and sexual predators, to conform to the act; amending s. 782.04, F.S.; providing that the unlawful killing of a human being while perpetrating or attempting to perpetrate aggravated abuse or neglect of an elderly person or disabled adult is a capital felony rather than a second-degree felony; providing for an enhanced penalty and a mandatory minimum term for second-degree murder with a vehicle under certain circumstances; creating s. 782.051, F.S.; describing the offense of felony causing bodily injury and providing penalties therefor; amending ss. 782.07, 782.071, 782.072, F.S.; providing enhanced penalties for manslaughter, vehicular homicide, and vessel homicide if the person knew that the accident occurred and failed to give information and render aid; amending s. 784.07, F.S.; providing that a defendant convicted of committing a battery against a law enforcement officer or other specified officer while possessing a firearm or semiautomatic firearm is not eligible for any form of discretionary early release, except pardon, executive clemency, conditional medical release, or gain-time prior to serving the minimum sentence; creating s. 800.045, F.S.; providing definitions; prohibiting the photographing, videotaping, or filming of a person who has a reasonable expectation of privacy without the explicit consent of that person; prohibiting the knowing possession of such photographs, videotapes, or film; providing for relevant evidence of such a violation; providing certain exceptions; providing a penalty; amending s. 810.011, F.S.; defining the term "curtilage" with respect to chapter 810, relating to burglary and trespass, to include ground and buildings immediately surrounding a structure or dwelling; reenacting s. 810.011(1), (2), F.S., relating to the definitions of the terms "structure" and "dwelling" with respect to chapter 810, to incorporate the amendment to s. 810.011, F.S., in references; amending s. 825.102, F.S.; specifying actions that constitute aggravated abuse or neglect of an elderly person or disabled adult; amending s. 827.04, F.S.; defining, as a separate offense of child abuse, the offense of a person 21 years of age or older impregnating a child under 16 years of age; providing penalties; reenacting s. 787.04(5), F.S., relating to removing minors from state or concealing minors contrary to state agency order or court order, and s. 914.16, F.S., relating to limits on interviews of child abuse victims, to incorporate the amendment to s. 827.04, F.S., in references; providing legislative intent to facilitate prosecution of a person who impregnates a child under 16 years of age; requiring a mother who conceived a child when she was under 16 years of age and who is applying for public assistance for the dependent child to provide the name of the father and biological samples from the mother and the dependent child, under specified circumstances; prohibiting the Department of Health and Rehabilitative Services from accepting an application for public assistance for such dependent child until the department receives certain proof from the sheriff's office; providing for construction of specified provisions for confidentiality of records; defining the offense of knowingly and willfully providing false information regarding the paternity of a child in conjunction with applying for or receiving public assistance for a dependent child, and providing criminal penalties therefor; amending s. 827.071, F.S., relating to a sexual performance by a child, to require certain commercial processors or produc-

ers of film, videotape, video discs, or other images and persons who offer computer network services to report a depiction of a person reasonably believed to be a child engaged in sexual conduct to a law enforcement agency; providing a penalty for failing to report as required; providing immunity from civil or criminal liability for making such report; creating s. 827.075, F.S.; providing definitions; prohibiting the photographing, videotaping, or filming of a child in a clandestine fashion or without parental consent if the child's breast, genitals, or buttocks are disclosed and the intent is arousal or sexual gratification; prohibiting the knowing possession of such photographs, videotapes, or film; providing for relevant evidence of such a violation; providing certain exceptions; providing a penalty; amending s. 847.0135, F.S.; providing definitions; providing that it is a third-degree felony to transmit or take certain other actions that convey, or to authorize a person to transmit or take certain actions that convey, information about a minor for the purpose of committing certain illicit acts upon the minor; providing that it is a third-degree felony to seduce, solicit, lure, or entice a minor in order to commit, facilitate, encourage, or solicit the commission of, certain illicit acts upon the minor; providing that it is a third-degree felony to seduce, solicit, entice, or lure a minor to participate in certain illicit acts; providing that it is a third-degree felony to seduce, solicit, entice, or lure any person to commit, facilitate, or encourage the commission of certain illicit acts upon a minor; providing that it is a third-degree felony to transmit pornography, by means of a computer, to a minor or to authorize such an act; providing that it is a third-degree felony to transmit child pornography by means of a computer to any person; providing that it is a first-degree misdemeanor for an owner or operator of a computer service to knowingly permit certain acts of computer pornography or child exploitation; authorizing the court to impose a fine for such offense; providing that a person who resides in this state or another state is subject to prosecution for engaging in conduct upon a person who resides in this state; providing that it is no defense to prosecution that any strategem or deception, including use of an undercover operative or law enforcement officer, was employed; amending s. 893.135, F.S.; lowering the amount of cannabis necessary to constitute the offense of trafficking in cannabis; providing eligibility for pardon or executive clemency for a defendant convicted of certain drug trafficking offenses; revising the elements of the offense of trafficking in cocaine or illegal drugs to delete the necessity of a determination that the defendant had a highly culpable mental state in committing the offense; amending s. 901.15, F.S., relating to arrests by law enforcement officers without warrants; conforming a cross-reference to changes made by the act; amending s. 918.015, F.S.; allowing the Florida Supreme Court discretion in adopting rules that provide for the right of a defendant to a speedy trial; prohibiting a court from discharging a defendant from prosecution unless the court finds a substantive violation of the defendant's right to a speedy trial; amending s. 918.12, F.S., relating to tampering with jurors; revising language; describing and providing penalties for new criminal offenses of willful and malicious harassment of or retaliation against a grand or petit juror; amending s. 921.001, F.S.; providing that a defendant sentenced for a felony committed on or after a specified date, whose sentence under the guidelines is a nonstate prison sanction, may be sentenced to imprisonment for up to 22 months; providing that such sentence is not subject to appeal, except as an illegal sentence; amending s. 921.0011, F.S.; clarifying the definition of the term "victim injury" for purposes of sentencing; amending ss. 921.0012, 921.0013, F.S.; clarifying the purpose of numerical statutory references, felony degree designations, and descriptive language in the offense severity ranking chart; conforming the ranking of offenses in the sentencing guidelines offense levels to reflect changes made by the act; amending s. 921.0014, F.S.; clarifying requirements for assessing points under the sentencing guidelines for a prior capital felony; revising requirements for assessing points under the sentencing guidelines for a prior serious felony; amending s. 921.141, F.S.; providing a 30-day time limit upon the making of findings in support of a death sentence; making the death sentence subject to automatic review and disposition rendered within 2 years after the filing of a notice of appeal; providing as an aggravating circumstance for sentencing purposes that the capital felony was committed by a person placed on probation; providing as an aggravating circumstance that the victim of the capital felony was an elderly person or disabled adult or because of the defendant's familial or custodial authority over the victim; requiring consideration of any factors in the defendant's background mitigating against imposition of the death penalty; amending s. 921.142, F.S.; providing a 30-day time limit upon the making of findings in support of a death sentence; making the death sentence subject to automatic review and disposition rendered within 2 years after the filing of a notice of appeal; amending s. 921.143, F.S., relating

to the appearance of victim or next of kin to make statement at sentencing hearing; providing for the victim or next of kin to make a statement at such appearance in conjunction with submitting a written statement to the state attorney's office to be filed with the court; requiring the prosecuting attorney to advise the victim that such statements may relate to any matter relevant to appropriate disposition and sentence; amending s. 921.187, F.S., relating to disposition and sentencing; clarifying provisions with respect to actions by the court; providing for certain notification; creating s. 922.095, F.S.; providing that failure to pursue collateral relief within a specified period is grounds for issuance of a death warrant; directing the retitling of chapter 924, relating to appeals, as "Criminal Appeals and Collateral Review"; amending s. 924.05, F.S.; making only direct appeals under chapter 924 a matter of right; creating s. 924.051, F.S.; providing legislative intent and definitions; providing guidelines and terms and conditions of appeals and collateral review in criminal cases; limiting direct appeals to allegations of prejudicial error; limiting appeals after a defendant pleads guilty or nolo contendere; prohibiting collateral relief on grounds that were or could have been raised at trial and, if properly preserved, on direct appeal; placing a time limitation on filing for collateral relief, with exceptions; placing the burden of demonstrating prejudicial error on the party challenging a ruling of a trial court; prohibiting the use of public funds, resources, or employees in appellate or collateral proceedings unless it is constitutionally or statutorily mandated; creating 924.055, F.S.; providing legislative intent with respect to the timely progress of postconviction proceedings in capital cases; providing certain time limitations for postconviction motions, petitions, and proceedings in capital cases; amending s. 924.06, F.S.; revising criteria for appeal by defendant; limiting the right to appeal of defendants who plead guilty or nolo contendere; creating s. 924.066, F.S.; limiting applications for collateral relief and providing that there is no right to a court-appointed lawyer in noncapital collateral proceedings; amending s. 924.07, F.S., relating to the state's right of appeal, to clarify language; amending s. 924.37, F.S.; providing that a cross-appeal by the state is not jurisdictional; providing for appellate court decision or an issue cross-appealed by the state, under specified circumstances; removing a requirement that an appellate court decide issues appealed by the state; amending s. 933.09, F.S.; authorizing forceable entry into a house for purposes of executing a search warrant upon authorization of the judge or magistrate issuing the warrant; requiring that such warrant be issued pursuant to an application that demonstrates there is probable cause to believe that evidence or contraband may be destroyed or the safety of the officer who executes the warrant will be endangered if prior notice is given; amending s. 937.024, F.S.; requiring registrar's offices to notify the Department of Law Enforcement of a request for birth records; requiring the Department of Law Enforcement to notify the local law enforcement agency of such request; authorizing registrar's offices to remove flags from records upon notification from the Department of Law Enforcement; creating s. 937.025, F.S.; requiring schools to flag student records and assist law enforcement regarding missing students; providing immunity from civil liability; requiring certain reporting and providing immunity; providing criminal penalties for false reporting; creating s. 939.155, F.S.; providing for defendant's liability for certain costs in a criminal proceeding, under specified circumstances when the defendant retains private counsel prior to filing of an affidavit with respect to indigency; providing exceptions; amending s. 940.03, F.S.; requiring that an application for executive clemency for a person sentenced to death be filed within a specified period; amending s. 944.275, F.S.; clarifying provisions under which an inmate may be granted gain-time; clarifying the method for calculating 85 percent of sentence imposed; amending s. 947.1405, F.S., relating to the conditional release program; conforming provisions to changes made by the act; repealing Rules 3.150, 3.151, 3.152, 3.191, Florida Rules of Criminal Procedure, relating to joinder of offenses and defendants, consolidation of related offenses, severance of offenses and defendants, and the right to a speedy trial; repealing Category II of the Schedule of Lesser Included Offenses; repealing Rule 8.090, Florida Rules of Juvenile Procedure, relating to the right of a juvenile offender to a speedy trial; abrogating the application of s. 921.001(9)(b), F.S., relating to a requirement that certain legislation provide a funding source; creating s. 939.155, F.S.; providing for defendant's liability for certain costs in a criminal proceeding, under specified circumstances when the defendant retains private counsel prior to filing of an affidavit with respect to indigency; providing exceptions; providing for severability; providing an effective date.

WHEREAS, Florida's crime rate remains high, but has recently decreased in part based on increased punishment and the effective prosecution of criminal offenders, and

WHEREAS, the fight against criminals and their actions against the people of Florida requires an urgent and comprehensive criminal justice strategy that will make the criminal justice system more effective in punishing crime and fairer for all the people of Florida, including the victims of criminal offenders, and

WHEREAS, it is imperative to enact systemic legislation that provides more effective but fair prosecution and punishment of criminal actions, and

WHEREAS, systemic legislation must improve the administration of criminal justice, including the effective use of judicially reviewed search warrants that adequately protect the lives of law enforcement officers and preserve evidence of crimes, and

WHEREAS, the explosion of frivolous criminal appeals decrease public confidence in and the effectiveness of the criminal justice system, and

WHEREAS, in striving to eliminate the unnecessary exploitation of limited public financial resources by criminal defendants who are not entitled to use local and state resources for free legal representation in criminal actions, the Legislature must protect deserving indigent defendants' right to proper criminal defense representation to ensure the integrity and efficacy of the criminal justice system, and

WHEREAS, the crucial battle against crime requires that the court have the discretion to impose a limited prison sentence against a felon when the sentencing judge determines that, because of the felon's actions, the suffering caused to the victim, and the felon's criminal history, the felon should be incarcerated in state prison regardless of the sentencing guidelines recommendation, and

WHEREAS, the reporting of the presence of sexual predators will assist in protecting the public safety, and

WHEREAS, the incidence of vehicular homicide and other felonies in which victims are injured requires urgent legislative action, and

WHEREAS, elderly and disabled persons who could become the victims of murder and the criminally abused deserve protection by legislative action that will make such crimes appropriately punishable, including the imposition of the death penalty when judicially appropriate, and

WHEREAS, the incidence of "smash and grab" burglaries has imposed untold suffering and property damage on victims, requiring enhanced penalties for such crimes, and

WHEREAS, the people deserve to be protected from criminals who invade the sanctity of their homes and private property to commit crimes that must rightfully be considered burglaries, and

WHEREAS, the victims of crime must be given every opportunity to exercise their constitutional rights in the courtroom, and

WHEREAS, the crucial battle against Florida's high crime rate requires a comprehensive legislative commitment to improve the criminal justice system to protect the public, NOW, THEREFORE,

On motion by Senator Burt, the Senate concurred in **House Amendment 1** as amended and requested the House to concur in the Senate amendment to the House amendment.

**CS for SB 4** passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—39      Nays—None

*The Honorable James A. Scott, President*

I am directed to inform the Senate that the House of Representatives has passed SB 104, with amendment(s), and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

**SB 104**—A bill to be entitled An act relating to ad valorem taxation; amending s. 200.065, F.S., which provides requirements for determination of millage by taxing authorities; providing for public announcement

of specified information relating to an adopted millage rate in lieu of public reading of the millage-levy resolution or ordinance; providing an effective date.

**House Amendment 1 (with title amendment)**—On page 2, between lines 29 and 30, insert:

Section 2. Paragraph (a) of subsection (3) of section 200.065, Florida Statutes, is amended to read:

200.065 Method of fixing millage.—

(3) The advertisement shall be no less than one-quarter page in size of a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper of general paid circulation in the county or in a geographically limited insert of such newspaper. The geographic boundaries in which such insert is circulated shall include the geographic boundaries of the taxing authority. It is the legislative intent that, whenever possible, the advertisement appear in a newspaper that is published at least 5 days a week unless the only newspaper in the county is published less than 5 days a week, or that the advertisement appear in a geographically limited insert of such newspaper which insert is published throughout the taxing authority's jurisdiction at least twice each week. It is further the legislative intent that the newspaper selected be one of general interest and readership in the community and not one of limited subject matter, pursuant to chapter 50.

(a) For taxing authorities other than school districts which have tentatively adopted a millage rate in excess of 100 percent of the rolled-back rate computed pursuant to subsection (1), the advertisement shall be in the following form:

#### NOTICE OF PROPOSED TAX INCREASE

The . . . (name of the taxing authority). . . has tentatively adopted a measure to increase its property tax levy.

*Last year's property tax levy:*

A. *Initially proposed tax levy* . . . . . \$XX,XXX,XXX  
 B. *Less tax reductions due to Value Adjustment Board and other assessment changes* . . . . . (\$XX,XXX,XXX)  
 C. *Actual property tax levy* . . . . . \$XX,XXX,XXX  
*This year's proposed tax levy* . . . . . \$XX,XXX,XXX  
 by . . . (percentage of increase over rolled-back rate) . . . percent.

All concerned citizens are invited to attend a public hearing on the tax increase to be held on . . . (date and time). . . at . . . (meeting place). . .

A FINAL DECISION on the proposed tax increase and the budget will be made at this hearing.

Section 3. Subsection (14) of section 200.065, Florida Statutes, is hereby repealed.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 9, after the semicolon (;) insert: amending s. 200.065, F.S.; revising the form of a tax increase notice; repealing s. 200.065(14), F.S., relating to the form of a notice of tax clarification;

On motion by Senator Bronson, the Senate concurred in the House amendment.

**SB 104** passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—29      Nays—None

*The Honorable James A. Scott, President*

I am directed to inform the Senate that the House of Representatives has passed SB 118, with amendment(s), and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

**SB 118**—A bill to be entitled An act relating to health care; amending s. 395.002, F.S.; providing a definition of mobile ambulatory surgical center; amending ss. 409.901, 409.907, 409.913, F.S.; conforming provisions to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; providing definitions; modifying provisions relating to provider agreements; incorporating technical revisions; requiring providers to submit certain application information; authorizing the agency to review applications for the purpose of determining an applicant's participation in the Medicaid program; providing the criteria upon which the agency may deny enrollment in the Medicaid program to a provider; expanding agency duties relating to recovery of overpayments and imposition of sanctions; providing definitions; authorizing agency investigation of possible violations identified by agency reviews; providing for a memorandum of understanding between the agency and the Department of Legal Affairs' fraud-control unit; authorizing the use of applicable peer review organization findings as evidence; providing notice procedures and requirements; providing additional requirements for claims; authorizing the agency to review records and conduct other investigations; limiting certain payments to billing agents; providing for suspension or termination of providers; providing civil remedies and fines; requiring notice under described circumstances; authorizing certain use of statistical evidence; amending recovery amount for investigative and expert costs; providing agency authority to collect moneys owed, including certain interest; amending s. 409.912, F.S.; authorizing the agency to purchase chiropractic services for Medicaid recipients on a fee-for-service basis; amending s. 409.9081, F.S.; providing that a Medicaid provider is not required to bill or collect any copayment; providing that the Agency for Health Care Administration shall deduct the amount of the copayment from the Medicaid reimbursement to the provider, regardless of whether the provider bills or collects the copayment; amending s. 409.920, F.S.; providing a definition of the term "agency"; deleting the fraud offense of failure to bill or attempt to collect a Medicaid copayment; amending s. 921.0012, F.S.; modifying the sentencing guidelines offense severity ranking chart to include Medicaid provider fraud; providing an effective date.

**House Amendment 1 (with title amendment)**—On page 3, lines 1-11, delete all of said lines and renumber subsequent sections.

And the title is amended as follows:

On page 1, lines 2-4, delete all of said lines and insert: An act relating to Medicaid fraud and abuse; amending ss.

**House Amendment 3 (with title amendment)**—On page 45, between lines 15 and 16, insert:

Section 10. The Office of Program Policy Analysis and Government Accountability is directed to review the Transportation Disadvantaged Program. This study shall determine if transportation services are being managed in the most cost effective manner and to provide maximum service. This study shall examine the systems used to provide services at the local level, including the use of public sector buses to meet standards of the Americans with Disabilities Act, and the systems used to ensure accountability of services and funding. The office shall publish its report detailing its findings and recommendations by February 1, 1997.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 2, line 26, after the semicolon (;), insert: requiring the Office of Program Policy Analysis and Government Accountability to review the Transportation Disadvantaged Program; providing requirements; requiring a report;

**House Amendment 4 (with title amendment)**—On page 45, between lines 15 and 16, insert:

Section 10. Paragraphs (p) and (q) are added to subsection (1) of section 427.012, Florida Statutes, to read:

427.012 The Commission for the Transportation Disadvantaged.—There is created the Commission for the Transportation Disadvantaged in the Department of Transportation.

(1) The commission shall consist of the following members:

(p) Two members of the legislature, one appointed by the Speaker of the House from among the members of the House, and one appointed by the President of the Senate from among the members of the Senate.

(q) Six citizens representing the business community of the State of Florida, three appointed by the Speaker of the House, and three appointed by the President of the Senate to serve a term of 4 years.

(Renumber subsequent section.)

And the title is amended as follows:

On page 2, line 26, after the semicolon (;) insert: amending s. 427.012, F.S.; providing for additional members of the Commission for the Transportation Disadvantaged;

**House Amendment 6**—On page 33, line 13, delete "subsection (1)" and insert: this section

Senator Forman moved the following amendment which was adopted:

**Senate Amendment 1 to House Amendment 4**—On page 1, line 25 through page 2, line 1, delete those lines and insert:

(p) Four representatives of current private for-profit or private not-for-profit transportation operators, each of which having a minimum of 5 years of continuous experience operating a broad-based system of ambulatory and wheelchair or stretcher-type transportation, utilizing not less than 50 vehicles, and including dispatch and scheduling responsibilities. Such persons shall be appointed by the Commissioner of Agriculture to serve a term of 4 years.

(q) Six citizens representing the nontransportation business community of the state, three members appointed by the President of the Senate and three members appointed by the Speaker of the House of Representatives.

On motion by Senator Forman, the Senate concurred in **House Amendment 4** as amended and requested the House to concur in the Senate amendment to the House amendment; refused to concur in House Amendment 6 and the House was requested to recede; and concurred in **House Amendments 1 and 3**.

**SB 118** passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34      Nays—None

*The Honorable James A. Scott, President*

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB 508, with amendment(s), and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

**CS for CS for SB 508**—A bill to be entitled An act relating to the "Mangrove Trimming and Preservation Act"; amending s. 403.9322, F.S.; adding to legislative findings; amending s. 403.9323, F.S.; expanding legislative intent; amending s. 403.9324, F.S.; clarifying local government authority; amending s. 403.9325, F.S.; adding, deleting, and revising definitions; amending s. 403.9326, F.S.; revising exemptions from permitting requirements; amending s. 403.9327, F.S.; revising permitting standards; creating s. 403.93271, F.S., relating to multifamily residential units; amending s. 403.9328, F.S.; revising alteration and trimming standards; amending s. 403.9329, F.S.; revising qualifications and standards for professional mangrove trimmers; amending s. 403.9332, F.S.; revising mitigation and restoration requirements; providing additional monetary penalties; providing that certain permits, orders, and applications shall not be affected; providing an effective date.

**Substitute House Amendment 1**—On page 5, line 29, delete "25 75" and insert: 50 75

On motion by Senator Latvala, the Senate concurred in the House amendment.

**CS for CS for SB 508** passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:



Yeas—32      Nays—None

*The Honorable James A. Scott, President*

I am directed to inform the Senate that the House of Representatives has passed SB 1174, with amendment(s), and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

**SB 1174**—A bill to be entitled An act relating to the discipline or expulsion of pupils; amending s. 232.26, F.S.; authorizing principals to waive discipline or expulsion of pupils subject to the approval of the school board in certain situations; providing an effective date.

**House Amendment 1 (with title amendment)**—On page 1, line 10, delete everything after the enacting clause and insert:

Section 1. Subsection (2) of section 232.26, Florida Statutes, is amended to read:

**232.26 Authority of principal.—**

(2) Suspension proceedings, pursuant to rules of the State Board of Education, may be initiated against any pupil enrolled as a student who is formally charged with a felony, or with a delinquent act which would be a felony if committed by an adult, by a proper prosecuting attorney for an incident which allegedly occurred on property other than public school property, if that incident is shown, in an administrative hearing with notice provided to the parents or legal guardian or custodian of such pupil by the principal of the school pursuant to rules promulgated by the State Board of Education and to rules developed pursuant to s. 231.085, to have an adverse impact on the educational program, discipline, or welfare in the school in which the student is enrolled. Any pupil who is suspended as the result of such proceedings may be suspended from all classes of instruction on public school grounds during regular classroom hours for a period of time, which may exceed 10 days, as determined by the superintendent. Such suspension shall not affect the delivery of educational services to the pupil, and the pupil shall be immediately enrolled in a daytime alternative education program, or an evening alternative education program, where appropriate. ~~If the court subsequently determines that the pupil did not commit the felony or delinquent act, the pupil is not subsequently adjudicated delinquent or found guilty, the suspension shall be terminated immediately. If the pupil enters a plea of nolo contendere or guilty to the charge of the felony or delinquent act, or if the court determines that the pupil did commit the felony or delinquent act, the school board shall have the authority to expel the pupil, provided that suspension or expulsion under this subsection shall not affect the delivery of educational services to the pupil in any residential, nonresidential, alternative, daytime, or evening program outside of the regular public school setting. The expulsion may proceed even if the court withholds adjudication or deems the child delinquent. If the pupil is found guilty of a felony, the superintendent shall have the authority to determine if a recommendation for expulsion shall be made to the school board; however, such suspension or expulsion shall not affect the delivery of educational services to the pupil in any residential or nonresidential program outside the public school.~~ Any pupil who is subject to discipline or expulsion for unlawful possession or use of any substance controlled under chapter 893 may ~~shall~~ be entitled to a waiver of the discipline or expulsion:

(a) If the pupil divulges information leading to the arrest and conviction of the person who supplied such controlled substance to him or her, or if the pupil voluntarily discloses his or her unlawful possession of such controlled substance prior to his or her arrest. Any information divulged which leads to such arrest and conviction is not admissible in evidence in a subsequent criminal trial against the pupil divulging such information.

(b) If the pupil commits himself or herself, or is referred by the court in lieu of sentence, to a state-licensed drug abuse program and successfully completes the program.

(3) *A pupil may be disciplined or expelled for unlawful possession or use of any substance controlled under Chapter 893 upon the third violation of this provision.*

(4)(3) Any recommendation for the expulsion of a handicapped student shall be made in accordance with the rules promulgated by the State Board of Education.

Section 2. For purpose of incorporating the amendment to section 232.26, Florida Statutes, in a reference thereto, subsection (11) of section 39.045, Florida Statutes, is reenacted to read:

**39.045 Oaths; records; confidential information.—**

(11) Notwithstanding any other provision of this section, when a child of any age is taken into custody by a law enforcement officer for an offense that would have been a felony if committed by an adult, or a crime of violence, the law enforcement agency must notify the superintendent of schools that the child is alleged to have committed the delinquent act. Upon notification, the principal is authorized to begin disciplinary actions pursuant to s. 232.26. The information obtained by the superintendent of schools pursuant to this section must be released within 48 hours after receipt to appropriate school personnel, including the principal of the school of the child. The principal must immediately notify the child's immediate classroom teachers.

Section 3. Section 232.271, Florida Statutes, is created to read:

**232.271 Removal by teacher.—**

(1) A teacher may send a student to the principal's office to maintain effective discipline in the classroom. The principal shall respond by employing appropriate discipline-management techniques consistent with the student code of conduct under s. 230.23.

(2) A teacher may remove from class a student:

(a) Who has been documented by the teacher to repeatedly interfere with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn; or

(b) Whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn.

(3) Written documentation, including the alternative disciplinary measures taken by the teacher to correct the misbehavior shall accompany the teacher's written request for the removal of the student under subsection (2), unless in the case of the safety and welfare of the students and teacher.

(4) If a teacher removes a student from class under subsection (2), the principal may place the student in another appropriate classroom, in in-school suspension, or in an alternative education program as provided by s. 230.2316; or the principal may recommend the student for out-of-school suspension or expulsion, as appropriate. The student may be prohibited from attending or participating in school-sponsored or school-related activities. The principal shall notify the teacher of his or her recommendation by the end of the day the student was removed from the classroom. Should the principal disagree with the recommendation of the teacher, the principal may return the student to the classroom the day following the removal until the committee established under s. 232.272 reviews the teacher's recommendation along with the supporting documentation that includes the alternative disciplinary measures used by the teacher. The review committee shall make a recommendation to the principal on the appropriate placement of the student. The principal shall consider the recommendation of the committee. The teacher and the placement review committee must render decisions within five days of the removal of the student from the classroom.

(5) Any teacher who removes 25 percent of his or her total class enrollment shall be required to complete professional development to improve classroom management skills.

Section 4. Section 232.272, Florida Statutes, is created to read:

**232.272 Placement review committee.**—Each school shall establish a committee to determine placement of a student when a teacher withholds consent to the return of a student to the teacher's class. Committee membership must include at least the following:

(1) Two teachers selected by the school's faculty; and



(2) Two members from the school's staff who are selected by the principal.

The teacher who withheld consent to readmitting the student may not serve on the committee. The teacher and the placement review committee must render decisions within five days of the removal of the student from the classroom.

Section 5. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, lines 2 through 7, delete entire title and insert: An act relating to the discipline or expulsion of pupils; amending s. 232.26, F.S.; revising procedures and conditions relating to suspension or expulsion of a student who is charged with certain actions; authorizing a waiver of discipline or expulsion under certain situations; reenacting s. 39.045(11), F.S., relating to notification of delinquent acts, to incorporate the amendment to s. 232.26, F.S., in a reference; creating s. 232.271, F.S.; providing for a teacher's authority to remove disruptive students from the classroom; requiring certain teachers to complete professional development classes under certain circumstances; creating s. 232.272, F.S.; establishing a placement review committee; providing an effective date.

Senators Harris and Sullivan offered the following amendment which was moved by Senator Harris and adopted:

**Senate Amendment 1 (with title amendment) to House Amendment 1**—On page 1, line 19 through page 6, line 10, delete all those lines and insert:

Section 1. Subsection (2) of section 232.26, Florida Statutes, is amended to read:

232.26 Authority of principal.—

(2) Suspension proceedings, pursuant to rules of the State Board of Education, may be initiated against any pupil enrolled as a student who is formally charged with a felony, or with a delinquent act which would be a felony if committed by an adult, by a proper prosecuting attorney for an incident which allegedly occurred on property other than public school property, if that incident is shown, in an administrative hearing with notice provided to the parents or legal guardian or custodian of such pupil by the principal of the school pursuant to rules promulgated by the State Board of Education and to rules developed pursuant to s. 231.085, to have an adverse impact on the educational program, discipline, or welfare in the school in which the student is enrolled. Any pupil who is suspended as the result of such proceedings may be suspended from all classes of instruction on public school grounds during regular classroom hours for a period of time, which may exceed 10 days, as determined by the superintendent. Such suspension shall not affect the delivery of educational services to the pupil, and the pupil shall be immediately enrolled in a daytime alternative education program, or an evening alternative education program, where appropriate. ~~If the court subsequently determines that the pupil did not commit the felony or delinquent act which would have been a felony if committed by an adult pupil is not subsequently adjudicated delinquent or found guilty, the suspension shall be terminated immediately.~~

(3) ~~If the court determines that the pupil did commit the felony or delinquent which would have been a felony if committed by an adult, the school board shall have the authority to expel the student, provided that expulsion under this subsection shall not affect the delivery of educational services to the pupil in any residential, nonresidential, alternative, daytime, or evening program outside of the regular school setting. If the pupil is found guilty of a felony, the superintendent shall have the authority to determine if a recommendation for expulsion shall be made to the school board; however, such suspension or expulsion shall not affect the delivery of educational services to the pupil in any residential or nonresidential program outside the public school.~~

(4) ~~The principal, subject to approval by the school board, may waive the discipline or expulsion of any pupil who is subject to discipline or expulsion for unlawful possession or use of any substance controlled under chapter 893 shall be entitled to a waiver of the discipline or expulsion.~~

(a) If the pupil divulges information leading to the arrest and conviction of the person who supplied such controlled substance to him or her,

or if the pupil voluntarily discloses his or her unlawful possession of such controlled substance prior to his or her arrest. Any information divulged which leads to such arrest and conviction is not admissible in evidence in a subsequent criminal trial against the pupil divulging such information.

(b) If the pupil commits himself or herself, or is referred by the court in lieu of sentence, to a state-licensed drug abuse program and successfully completes the program.

Section 2. For purpose of incorporating the amendment to section 232.26, Florida Statutes, in a reference thereto, subsection (11) of section 39.045, Florida Statutes, is reenacted to read:

39.045 Oaths; records; confidential information.—

(11) Notwithstanding any other provision of this section, when a child of any age is taken into custody by a law enforcement officer for an offense that would have been a felony if committed by an adult, or a crime of violence, the law enforcement agency must notify the superintendent of schools that the child is alleged to have committed the delinquent act. Upon notification, the principal is authorized to begin disciplinary actions pursuant to s. 232.26. The information obtained by the superintendent of schools pursuant to this section must be released within 48 hours after receipt to appropriate school personnel, including the principal of the school of the child. The principal must immediately notify the child's immediate classroom teachers.

Section 3. Section 232.271, Florida Statutes, is created to read:

232.271 Removal by teacher.—

(1) A teacher may send a student to the principal's office to maintain effective discipline in the classroom. The principal shall respond by employing appropriate discipline-management techniques consistent with the student code of conduct under s. 230.23.

(2) A teacher may remove from class a student:

(a) Who has been documented by the teacher to repeatedly interfere with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn; or

(b) Whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn.

(3) If a teacher removes a student from class under subsection (2), the principal may place the student in another appropriate classroom, in in-school suspension, or in an alternative education program as provided by s. 230.2316; or the principal may recommend the student for out-of-school suspension or expulsion, as appropriate. The student may be prohibited from attending or participating in school-sponsored or school-related activities. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under s. 232.272 determines that such placement is the best or only available alternative.

(4) Any teacher who removes 25 percent of his or her total class enrollment shall be required to complete professional development to improve classroom management skills.

Section 4. Section 232.272, Florida Statutes, is created to read:

232.272 Placement review committee.—Each school may establish a committee to determine placement of a student when a teacher withholds consent to the return of a student to the teacher's class. Committee membership must include at least the following:

(1) One teacher selected by the school's faculty;

(2) One member from the school's staff who is selected by the principal; and

(3) One member of the school advisory council who is not an employee of the school district or the Department of Education, who is selected by the school advisory council.

The teacher who withheld consent to readmitting the student may not serve on the committee.

Section 5. Section 232.27, Florida Statutes, is amended to read:

232.275 Liability of teacher or principal.—Except in the case of excessive force or cruel and unusual punishment, a teacher or other member of the instructional staff, a principal or the principal's designated representative, or a bus driver shall not be civilly or criminally liable, or named as a defendant in any suit, for any action carried out in conformity with the state board and district school board rules regarding the control, discipline, suspension, and expulsion of students.

Section 6. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, lines 4-6, delete those lines and insert: revising procedures and conditions relating to suspension or expulsion of a student who is charged with certain actions; authorizing principals to waive discipline or expulsion of pupils subject to the approval of the school board in certain situations; reenacting s. 39.045(11), F.S., relating to notification of delinquent acts, to incorporate the amendment to s. 232.26, F.S., in a reference; creating s. 232.271, F.S.; providing for a teacher's authority to remove disruptive students from the classroom; creating s. 232.272, F.S.; establishing a placement review committee; amending s. 232.275, F.S.; providing immunity from liability

On motion by Senator Harris, the Senate concurred in **House Amendment 1** as amended and requested the House to concur in the Senate amendment to the House amendment.

**SB 1174** passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—39      Nays—None

*The Honorable James A. Scott, President*

I am directed to inform the Senate that the House of Representatives has passed SB 1404, with amendment(s), by the required Constitutional three-fifths vote of the membership and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

**SB 1404**—A bill to be entitled An act re-creating the Administrative Trust Fund within the Division of Blind Services of the Department of Labor and Employment Security without modification; carrying forward current balances and continuing current sources and uses; providing an effective date.

**House Amendment 1 (with title amendment)**—On page 1, lines 10-11 and 24, delete the Division of Blind Services of

And the title is amended as follows:

On page 1, line 3, delete the Division of Blind Services of

On motion by Senator Diaz-Balart, the Senate concurred in the House amendment.

**SB 1404** passed as amended by the required constitutional three-fifths vote of the membership, and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—36      Nays—None

*The Honorable James A. Scott, President*

I am directed to inform the Senate that the House of Representatives has passed CS for SB 2774, with amendment(s), and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

**CS for SB 2774**—A bill to be entitled An act relating to lobbying; amending s. 11.045, F.S.; providing registration requirements; providing for procedures with respect to reporting; providing time requirements with respect to reports; eliminating language permitting reporting statements filed by legislative branch lobbyists to not be filed under certain circumstances; providing for an automatic fine for late-filed reports; providing for appeal of fines; directing the Legislature to adopt rules and procedures with respect to reports; amending s. 112.3215, F.S.; providing additional registration requirements; providing requirements for cancellation; authorizing the commission to set the registration fee by rule for executive branch lobbyists; eliminating language permitting reporting statements filed by executive branch lobbyists to not be filed under certain circumstances; providing time requirements with respect to reports; providing for an automatic fine for late-filed reports; providing for appeal of fines; directing the commission to adopt rules and procedures with respect to reports; providing an effective date.

**House Amendment 1**—On page 8, line 28 through page 9, line 4, delete all said lines

**House Amendment 2**—On page 13, line 28, insert:

(6) A lobbyist shall promptly send a written statement to the commission cancelling the registration for a principal upon termination of the lobbyist's representation of that principal. Notwithstanding this requirement, the commission may remove the name of a lobbyist from the list of registered lobbyists if the principal notifies the office that a person is no longer authorized to represent that principal ~~may cancel a registration with the commission upon termination of his contract or other such employment relationship with his principal. Such cancellation must be by written notice to the commission.~~

**House Amendment 3**—On page 8, line 4, delete "and (5)" and insert: (5), and (6)

**House Amendment 4**—On page 5, line 21, before the period (.) insert: , including an extension, if any

On motion by Senator Wexler, the Senate concurred in the House amendments.

**CS for SB 2774** passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37      Nays—None

## RETURNING MESSAGES ON HOUSE BILLS

*The Honorable James A. Scott, President*

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment 1, amended Senate Amendment 2 and concurred in same as amended, and passed CS for HB 341 as further amended and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

**CS for HB 341**—A bill to be entitled An act relating to education; amending s. 230.23, F.S.; revising provisions relating to control of pupils; amending s. 232.26, F.S.; requiring principals to consider certain recommendations when referring a student for discipline; providing for student expulsion or assignment to a second chance school for false accusations against school personnel; amending s. 232.27, F.S.; providing teacher authority to undertake actions in managing student behavior; providing teacher responsibility for control of students; amending s. 234.02, F.S.; establishing safety and health standards for transportation of public school students; amending s. 234.101, F.S.; prescribing qualifications for school bus drivers; providing school district duties; creating s. 232.271, F.S.; providing for a teacher's authority to remove disruptive students from the classroom; requiring certain teachers to complete professional development classes under certain circumstances; creating s. 232.272, F.S.; establishing a placement review committee; creating s. 232.273, F.S.; requiring adoption of standards for use of reasonable force; amending s. 232.28, F.S.; revising provisions relating to authority of school bus drivers to maintain order; providing school district duties; providing an effective date.

**House Amendment 1 to Senate Amendment 2 (with title amendment)**—On page 1, line 19 through page 2, line 6, delete all of said lines and insert:

232.25 Pupils subject to control of school.—

(1) Subject to law and rules and regulations of the state board and of the school board, each pupil enrolled in a school shall, during the time she or he is being transported to or from school at public expense, during the time she or he is attending school, and during the time she or he is on the school premises, be under the control and direction of the principal or teacher in charge of the school, and under the immediate control and direction of the teacher or other member of the instructional staff or of the bus driver to whom such responsibility may be assigned by the principal. However, the state board or the district school board may, by rules and regulations, subject each pupil to the control and direction of the principal or teacher in charge of the school during the time she or he is otherwise en route to or from school or is presumed by law to be attending school.

(2) *Nothing shall prohibit a district school board from having the right to expel, or to take disciplinary action against, a student who is found to have committed an offense on school property at any time if:*

(a) *The student is found to have committed a delinquent act which would be a felony if committed by an adult;*

(b) *The student has had adjudication withheld for a delinquent act which, if committed by an adult, would be a felony; or*

(c) *The student has been found guilty of a felony.*

And the title is amended as follows:

On page 2, lines 17-20, of the amendment, delete all of said lines and insert: school board authority to take disciplinary action against a student who commits an offense on school property under specified conditions;

On motion by Senator Johnson, the Senate concurred in the House amendment to the Senate amendment.

**CS for HB 341** passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36      Nays—None

## RETURNING MESSAGES—FINAL ACTION

*The Honorable James A. Scott, President*

I am directed to inform the Senate that the House of Representatives has passed SB 668, SB 1154 and SB 2370.

*John B. Phelps, Clerk*

The bills contained in the foregoing message were ordered enrolled.

*The Honorable James A. Scott, President*

I am directed to inform the Senate that the House of Representatives has receded from House Amendment 1 and passed SB 186.

*John B. Phelps, Clerk*

The bill contained in the foregoing message was ordered enrolled.

*The Honorable James A. Scott, President*

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendment(s) and passed HB 349, as amended.

*John B. Phelps, Clerk*

## ROLL CALLS ON SENATE BILLS

### CS for SB 4

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Horne	Myers	

Nays—None

### CS for SB 46

Yeas—33

Bankhead	Dyer	Kirkpatrick	Sullivan
Beard	Forman	Kurth	Thomas
Brown-Waite	Grant	Latvala	Turner
Burt	Gutman	McKay	Weinstein
Casas	Hargrett	Meadows	Wexler
Childers	Harris	Myers	Williams
Crist	Horne	Ostalkiewicz	
Dantzler	Johnson	Rossin	
Dudley	Jones	Silver	

Nays—None

Vote after roll call:

Yea—Bronson, Harden, Jenne

### SJR 58

Yeas—38

Mr. President	Diaz-Balart	Jennings	Rossin
Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Hargrett	Meadows	Williams
Crist	Harris	Myers	
Dantzler	Horne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Jenne

### SB 104

Yeas—29

Mr. President	Grant	Kirkpatrick	Thomas
Beard	Harden	Kurth	Turner
Bronson	Hargrett	Latvala	Weinstein
Burt	Harris	McKay	Wexler
Casas	Horne	Meadows	Williams
Childers	Jennings	Ostalkiewicz	
Crist	Johnson	Rossin	
Forman	Jones	Sullivan	

Nays—None

Vote after roll call:

Yea—Jenne

**SB 118**

Yeas—34

Mr. President	Dantzler	Jennings	Rossin
Bankhead	Dudley	Johnson	Sullivan
Beard	Dyer	Jones	Thomas
Bronson	Forman	Kirkpatrick	Turner
Brown-Waite	Grant	Kurth	Weinstein
Burt	Harden	Latvala	Wexler
Casas	Hargrett	McKay	Williams
Childers	Harris	Meadows	
Crist	Horne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Jenne

**CS for CS for SB 310**

Yeas—37

Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Hargrett	Meadows	Williams
Crist	Harris	Myers	
Dantzler	Horne	Ostalkiewicz	
Diaz-Balart	Jennings	Rossin	

Nays—None

Vote after roll call:

Yea—Jenne

**CS for CS for SB 508**

Yeas—32

Mr. President	Dantzler	Horne	Ostalkiewicz
Bankhead	Dudley	Johnson	Rossin
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Harden	Latvala	Weinstein
Casas	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams

Nays—None

Vote after roll call:

Yea—Childers, Gutman, Jenne, Jennings

**CS for SB 698**

Yeas—37

Bankhead	Dantzler	Hargrett	Latvala
Beard	Diaz-Balart	Harris	McKay
Bronson	Dudley	Horne	Meadows
Brown-Waite	Dyer	Jennings	Myers
Burt	Forman	Johnson	Ostalkiewicz
Casas	Grant	Jones	Rossin
Childers	Gutman	Kirkpatrick	Silver
Crist	Harden	Kurth	Sullivan

Thomas  
Turner

Weinstein

Wexler

Williams

Nays—None

Vote after roll call:

Yea—Jenne

**CS for CS for SB 770**

Yeas—33

Mr. President	Dyer	Johnson	Sullivan
Beard	Forman	Jones	Thomas
Bronson	Grant	Kirkpatrick	Turner
Burt	Gutman	Kurth	Weinstein
Casas	Harden	Latvala	Wexler
Childers	Hargrett	McKay	Williams
Crist	Harris	Meadows	
Dantzler	Jenne	Rossin	
Diaz-Balart	Jennings	Silver	

Nays—None

Vote after roll call:

Yea—Ostalkiewicz

**SB 792**

Yeas—37

Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Hargrett	Meadows	Williams
Crist	Harris	Myers	
Dantzler	Horne	Ostalkiewicz	
Diaz-Balart	Jennings	Rossin	

Nays—None

Vote after roll call:

Yea—Jenne

**CS for SB 892**

Yeas—35

Bankhead	Dudley	Jenne	Rossin
Beard	Dyer	Jennings	Silver
Bronson	Forman	Johnson	Sullivan
Brown-Waite	Grant	Jones	Thomas
Casas	Gutman	Kirkpatrick	Turner
Childers	Harden	Kurth	Weinstein
Crist	Hargrett	McKay	Wexler
Dantzler	Harris	Meadows	Williams
Diaz-Balart	Horne	Ostalkiewicz	

Nays—1

Latvala

**CS for SB 910**

Yeas—34

Bankhead	Childers	Grant	Horne
Beard	Crist	Gutman	Jennings
Bronson	Dantzler	Harden	Johnson
Burt	Diaz-Balart	Hargrett	Jones
Casas	Forman	Harris	Kirkpatrick

Kurth	Myers	Sullivan
Latvala	Ostalkiewicz	Thomas
McKay	Rossin	Turner
Meadows	Silver	Weinstein

Nays—None

Vote after roll call:

Yea—Jenne

**SB 942**

Yeas—34

Bankhead	Dyer	Jones	Silver
Beard	Forman	Kirkpatrick	Sullivan
Bronson	Grant	Kurth	Thomas
Burt	Gutman	Latvala	Turner
Casas	Harden	McKay	Weinstein
Childers	Hargrett	Meadows	Wexler
Crist	Harris	Myers	Williams
Dantzler	Horne	Ostalkiewicz	
Dudley	Johnson	Rossin	

Nays—None

Vote after roll call:

Yea—Brown-Waite, Jenne

**SB 1068**

Yeas—36

Bankhead	Diaz-Balart	Horne	Myers
Beard	Dudley	Jennings	Rossin
Bronson	Dyer	Johnson	Silver
Brown-Waite	Forman	Jones	Sullivan
Burt	Grant	Kirkpatrick	Thomas
Casas	Gutman	Kurth	Turner
Childers	Harden	Latvala	Weinstein
Crist	Hargrett	McKay	Wexler
Dantzler	Harris	Meadows	Williams

Nays—None

Vote after roll call:

Yea—Jenne, Ostalkiewicz

**SB 1094**

Yeas—37

Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Hargrett	Meadows	Williams
Crist	Harris	Myers	
Dantzler	Horne	Ostalkiewicz	
Diaz-Balart	Jennings	Rossin	

Nays—None

Vote after roll call:

Yea—Jenne

**SB 1118**

Yeas—36

Bankhead	Diaz-Balart	Horne	Ostalkiewicz
Beard	Dudley	Jennings	Rossin
Bronson	Dyer	Jones	Silver
Brown-Waite	Forman	Kirkpatrick	Sullivan
Burt	Grant	Kurth	Thomas
Casas	Gutman	Latvala	Turner
Childers	Harden	McKay	Weinstein
Crist	Hargrett	Meadows	Wexler
Dantzler	Harris	Myers	Williams

Nays—None

Vote after roll call:

Yea—Jenne

**SB 1174**

Yeas—39

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams
Dantzler	Horne	Myers	

Nays—None

**SB 1404**

Yeas—36

Bankhead	Diaz-Balart	Jennings	Ostalkiewicz
Beard	Dudley	Johnson	Rossin
Bronson	Dyer	Jones	Silver
Brown-Waite	Forman	Kirkpatrick	Sullivan
Burt	Grant	Kurth	Thomas
Casas	Gutman	Latvala	Turner
Childers	Harden	McKay	Weinstein
Crist	Harris	Meadows	Wexler
Dantzler	Horne	Myers	Williams

Nays—None

Vote after roll call:

Yea—Hargrett, Jenne

**CS for SB 1692**

Yeas—35

Bankhead	Dudley	Johnson	Rossin
Beard	Dyer	Jones	Silver
Bronson	Forman	Kirkpatrick	Sullivan
Burt	Gutman	Kurth	Thomas
Casas	Harden	Latvala	Turner
Childers	Hargrett	McKay	Weinstein
Crist	Harris	Meadows	Wexler
Dantzler	Horne	Myers	Williams
Diaz-Balart	Jennings	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Grant, Jenne

**CS for SB 1692—After Reconsideration**

Yeas—31

Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kurth	Thomas
Burt	Gutman	Latvala	Turner
Childers	Harden	McKay	Weinstein
Crist	Hargrett	Meadows	Wexler
Dantzler	Harris	Ostalkiewicz	Williams
Dudley	Jennings	Rossin	

Nays—None

Vote after roll call:

Yea—Jenne

**SB 1812**

Yeas—38

Mr. President	Diaz-Balart	Jennings	Rossin
Bankhead	Dudley	Johnson	Silver
Beard	Forman	Jones	Sullivan
Bronson	Grant	Kirkpatrick	Thomas
Brown-Waite	Gutman	Kurth	Turner
Burt	Harden	Latvala	Weinstein
Casas	Hargrett	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Horne	Myers	
Dantzler	Jenne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Dyer

**SB 1860**

Yeas—36

Bankhead	Diaz-Balart	Jennings	Ostalkiewicz
Beard	Dudley	Johnson	Rossin
Bronson	Dyer	Jones	Silver
Brown-Waite	Forman	Kirkpatrick	Sullivan
Burt	Grant	Kurth	Thomas
Casas	Gutman	Latvala	Turner
Childers	Harden	McKay	Weinstein
Crist	Harris	Meadows	Wexler
Dantzler	Horne	Myers	Williams

Nays—None

Vote after roll call:

Yea—Jenne

**SB 1860—After Reconsideration**

Yeas—35

Bankhead	Dudley	Johnson	Rossin
Beard	Dyer	Jones	Silver
Bronson	Forman	Kirkpatrick	Sullivan
Brown-Waite	Grant	Kurth	Thomas
Burt	Gutman	Latvala	Turner
Casas	Hargrett	McKay	Weinstein
Childers	Harris	Meadows	Wexler
Crist	Horne	Myers	Williams
Dantzler	Jennings	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Jenne

**CS for SB 1940**

Yeas—36

Bankhead	Dudley	Jennings	Ostalkiewicz
Beard	Dyer	Johnson	Rossin
Bronson	Forman	Jones	Silver
Brown-Waite	Grant	Kirkpatrick	Sullivan
Burt	Gutman	Kurth	Thomas
Casas	Harden	Latvala	Turner
Childers	Hargrett	McKay	Weinstein
Crist	Harris	Meadows	Wexler
Dantzler	Horne	Myers	Williams

Nays—None

Vote after roll call:

Yea—Jenne

**CS for SB 1986**

Yeas—36

Bankhead	Diaz-Balart	Horne	Ostalkiewicz
Beard	Dudley	Jennings	Rossin
Bronson	Dyer	Johnson	Silver
Brown-Waite	Forman	Jones	Sullivan
Burt	Grant	Kirkpatrick	Thomas
Casas	Gutman	Kurth	Turner
Childers	Harden	Latvala	Weinstein
Crist	Hargrett	McKay	Wexler
Dantzler	Harris	Myers	Williams

Nays—None

Vote after roll call:

Yea—Jenne, Meadows

**CS for SB 2002**

Yeas—36

Bankhead	Diaz-Balart	Horne	Myers
Beard	Dudley	Jennings	Ostalkiewicz
Bronson	Dyer	Johnson	Rossin
Brown-Waite	Forman	Jones	Silver
Burt	Grant	Kirkpatrick	Sullivan
Casas	Gutman	Kurth	Thomas
Childers	Harden	Latvala	Turner
Crist	Hargrett	McKay	Wexler
Dantzler	Harris	Meadows	Williams

Nays—None

Vote after roll call:

Yea—Jenne

**CS for SB 2008**

Yeas—36

Mr. President	Dantzler	Horne	Ostalkiewicz
Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Turner
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams

Nays—None

Vote after roll call:



Yea—Jenne

Silver  
SullivanThomas  
Turner

Wexler

Williams

**SB 2186**

Yeas—37

Bankhead	Dudley	Johnson
Beard	Dyer	Jones
Bronson	Forman	Kirkpatrick
Brown-Waite	Grant	Kurth
Burt	Gutman	Latvala
Casas	Harden	McKay
Childers	Hargrett	Meadows
Crist	Harris	Myers
Dantzler	Horne	Ostalkiewicz
Diaz-Balart	Jennings	Rossin

Nays—None

Vote after roll call:

Yea—Jenne

**SB 2194**

Yeas—37

Bankhead	Dudley	Johnson
Beard	Dyer	Jones
Bronson	Forman	Kirkpatrick
Brown-Waite	Grant	Kurth
Burt	Gutman	Latvala
Casas	Harden	McKay
Childers	Hargrett	Meadows
Crist	Harris	Myers
Dantzler	Horne	Ostalkiewicz
Diaz-Balart	Jennings	Rossin

Nays—None

Vote after roll call:

Yea—Jenne

**SB 2354**

Yeas—24

Beard	Dudley	Jenne	Ostalkiewicz
Casas	Forman	Johnson	Rossin
Childers	Grant	Kirkpatrick	Sullivan
Crist	Harden	Latvala	Thomas
Dantzler	Harris	McKay	Turner
Diaz-Balart	Horne	Meadows	Williams

Nays—6

Dyer	Kurth	Weinstein	Wexler
Jones	Silver		

Vote after roll call:

Yea—Bronson, Hargrett

Yea to Nay—Rossin

**SB 2368**

Yeas—34

Bankhead	Dantzler	Harden	Kirkpatrick
Beard	Diaz-Balart	Hargrett	Kurth
Bronson	Dudley	Harris	Latvala
Brown-Waite	Dyer	Horne	McKay
Casas	Forman	Jennings	Meadows
Childers	Grant	Johnson	Ostalkiewicz
Crist	Gutman	Jones	Rossin

Nays—1

Weinstein

**CS for SB 2414**

Yeas—37

Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Hargrett	Meadows	Williams
Crist	Harris	Myers	
Dantzler	Horne	Ostalkiewicz	
Diaz-Balart	Jennings	Rossin	

Nays—None

Vote after roll call:

Yea—Jenne

**CS for SB 2774**

Yeas—37

Mr. President	Diaz-Balart	Jennings	Rossin
Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Thomas
Bronson	Forman	Kirkpatrick	Turner
Brown-Waite	Grant	Kurth	Weinstein
Burt	Gutman	Latvala	Wexler
Casas	Harden	McKay	Williams
Childers	Hargrett	Meadows	
Crist	Harris	Myers	
Dantzler	Horne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Jenne

**SB 2778**

Yeas—33

Bankhead	Dudley	Johnson	Sullivan
Beard	Dyer	Jones	Thomas
Bronson	Forman	Kurth	Turner
Brown-Waite	Grant	Latvala	Weinstein
Burt	Gutman	Meadows	Wexler
Casas	Hargrett	Myers	Williams
Childers	Harris	Ostalkiewicz	
Crist	Horne	Rossin	
Dantzler	Jennings	Silver	

Nays—None

Vote after roll call:

Yea—Harden, Jenne

**CS for SB 2784**

Yeas—29

Beard	Casas	Dudley	Harden
Bronson	Childers	Forman	Hargrett
Brown-Waite	Crist	Grant	Johnson
Burt	Dantzler	Gutman	Jones

Kirkpatrick	Meadows	Silver	Weinstein
Kurth	Ostalkiewicz	Sullivan	Wexler
Latvala	Rossin	Turner	Williams

McKay

Nays—None

Vote after roll call:

Yea—Diaz-Balart, Dyer, Jenne

**SB 2830**

Yeas—32

Bankhead	Dantzler	Horne	Rossin
Beard	Dudley	Johnson	Silver
Bronson	Dyer	Jones	Sullivan
Brown-Waite	Forman	Kurth	Thomas
Burt	Grant	Latvala	Turner
Casas	Gutman	Meadows	Weinstein
Childers	Hargrett	Myers	Wexler
Crist	Harris	Ostalkiewicz	Williams

Nays—None

Vote after roll call:

Yea—Harden, Jenne

**CS for SB 2954**

Yeas—37

Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Hargrett	Meadows	Williams
Crist	Harris	Myers	
Dantzler	Horne	Ostalkiewicz	
Diaz-Balart	Jennings	Rossin	

Nays—None

Vote after roll call:

Yea—Jenne

**STATEMENT OF INTENT**

Mr. President, we ask that the following remarks be placed into the Senate Journal to help clarify SB 2954 relating to Lake Apopka. This is an important bill needed to help restore Lake Apopka. However, it does not contain any provisions that are intended to authorize or allow modification to or destruction of the Rodman Reservoir, the Rodman Dam or the Buckman lock and structures. The terms in the bill referring to the Lake Apopka basin are intended to refer only to tributaries that flow into Lake Apopka. Everyone knows how sensitive the issues are relating to those water control structures and Senator Dyer, the Senate sponsor of SB 2954, has confirmed that his bill is not intended to affect any of the water control structures associated with Rodman Reservoir.

*George Kirkpatrick, 5th District*  
*Buddy Dyer, 14th District*  
*Rick Dantzler, 17th District*

**ROLL CALLS ON HOUSE BILLS****HB 27**

Yeas—34

Bankhead	Brown-Waite	Crist	Dudley
Beard	Burt	Dantzler	Dyer
Bronson	Casas	Diaz-Balart	Forman

Grant	Jones	Myers	Turner
Gutman	Kirkpatrick	Ostalkiewicz	Weinstein
Harden	Kurth	Rossin	Wexler
Hargrett	Latvala	Silver	Williams
Harris	McKay	Sullivan	
Horne	Meadows	Thomas	

Nays—None

Vote after roll call:

Yea—Childers, Jenne

**HB 147**

Yeas—35

Mr. President	Dantzler	Horne	Rossin
Bankhead	Diaz-Balart	Jenne	Silver
Beard	Dyer	Jennings	Sullivan
Bronson	Forman	Johnson	Thomas
Brown-Waite	Grant	Jones	Turner
Burt	Gutman	Kurth	Weinstein
Casas	Harden	Latvala	Wexler
Childers	Hargrett	McKay	Williams
Crist	Harris	Meadows	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Ostalkiewicz

**CS for HB 153**

Yeas—30

Bankhead	Diaz-Balart	Jones	Silver
Beard	Dyer	Kirkpatrick	Sullivan
Bronson	Grant	Kurth	Thomas
Brown-Waite	Harden	Latvala	Turner
Burt	Hargrett	McKay	Weinstein
Casas	Harris	Myers	Williams
Crist	Horne	Ostalkiewicz	
Dantzler	Johnson	Rossin	

Nays—1

Wexler

Vote after roll call:

Yea—Childers, Forman, Jenne, Meadows

Nay to Yea—Wexler

**HB 157**

Yeas—29

Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Gutman	Kurth	Turner
Burt	Harden	Latvala	Weinstein
Casas	Harris	McKay	Wexler
Childers	Jenne	Meadows	
Crist	Jennings	Rossin	
Diaz-Balart	Johnson	Silver	

Nays—5

Bankhead	Horne	Ostalkiewicz	Williams
Dudley			

**CS for HB 251**

Yeas—35

Bankhead	Dudley	Johnson	Rossin
Beard	Dyer	Jones	Silver
Bronson	Forman	Kirkpatrick	Sullivan
Brown-Waite	Gutman	Kurth	Thomas
Burt	Harden	Latvala	Turner
Casas	Hargrett	McKay	Weinstein
Childers	Harris	Meadows	Wexler
Crist	Horne	Myers	Williams
Dantzler	Jennings	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Grant, Jenne

**CS for HB 309**

Yeas—33

Bankhead	Diaz-Balart	Johnson	Sullivan
Beard	Dudley	Jones	Thomas
Bronson	Forman	Kurth	Turner
Brown-Waite	Grant	Latvala	Weinstein
Burt	Gutman	McKay	Wexler
Casas	Harden	Meadows	Williams
Childers	Harris	Ostalkiewicz	
Crist	Horne	Rossin	
Dantzler	Jennings	Silver	

Nays—None

Vote after roll call:

Yea—Hargrett, Jenne

**CS for HB 341**

Yeas—36

Bankhead	Diaz-Balart	Horne	Myers
Beard	Dudley	Jennings	Ostalkiewicz
Bronson	Dyer	Johnson	Rossin
Brown-Waite	Forman	Jones	Silver
Burt	Grant	Kirkpatrick	Thomas
Casas	Gutman	Kurth	Turner
Childers	Harden	Latvala	Weinstein
Crist	Hargrett	McKay	Wexler
Dantzler	Harris	Meadows	Williams

Nays—None

Vote after roll call:

Yea—Jenne

**CS for HB's 459, 931, 1407 and CS for HB 301**

Yeas—34

Bankhead	Dudley	Johnson	Silver
Beard	Forman	Jones	Sullivan
Bronson	Grant	Kirkpatrick	Thomas
Brown-Waite	Gutman	Kurth	Turner
Burt	Harden	Latvala	Weinstein
Casas	Hargrett	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Horne	Myers	
Dantzler	Jennings	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Dyer, Jenne, Rossin

**CS for HB 605**

Yeas—38

Mr. President	Diaz-Balart	Jennings	Rossin
Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Hargrett	Meadows	Williams
Crist	Harris	Myers	
Dantzler	Horne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Jenne

**CS for HB's 611 and 375**

Yeas—37

Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Hargrett	Meadows	Williams
Crist	Harris	Myers	
Dantzler	Horne	Ostalkiewicz	
Diaz-Balart	Jennings	Rossin	

Nays—None

Vote after roll call:

Yea—Jenne

**CS for HB 769**

Yeas—35

Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Burt	Grant	Kirkpatrick	Thomas
Casas	Gutman	Kurth	Turner
Childers	Harden	Latvala	Weinstein
Crist	Hargrett	McKay	Wexler
Dantzler	Harris	Meadows	Williams
Diaz-Balart	Horne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Brown-Waite, Jenne

**HB 803**

Yeas—34

Bankhead	Crist	Hargrett	Latvala
Beard	Dantzler	Harris	McKay
Bronson	Diaz-Balart	Horne	Meadows
Brown-Waite	Dudley	Johnson	Myers
Burt	Dyer	Jones	Ostalkiewicz
Casas	Grant	Kirkpatrick	Rossin
Childers	Harden	Kurth	Silver

Sullivan	Turner	Wexler	Williams	Harris	Jones	Ostalkiewicz	Turner
Thomas	Weinstein			Horne	Kurth	Rossin	Weinstein
Nays—None				Jenne	Latvala	Silver	Wexler
Vote after roll call:				Jennings	McKay	Sullivan	Williams
				Johnson	Meadows	Thomas	
Yea—Jenne, Jennings				Nays—None			

**HB 869****CS for HB 1375**

Yeas—36

Bankhead	Diaz-Balart	Jennings	Ostalkiewicz
Beard	Dudley	Johnson	Rossin
Bronson	Forman	Jones	Silver
Brown-Waite	Grant	Kirkpatrick	Sullivan
Burt	Gutman	Kurth	Thomas
Casas	Harden	Latvala	Turner
Childers	Hargrett	McKay	Weinstein
Crist	Harris	Meadows	Wexler
Dantzler	Horne	Myers	Williams

Nays—None

Vote after roll call:

Yea—Jenne

Yeas—35

Bankhead	Dyer	Johnson	Rossin
Beard	Forman	Jones	Silver
Bronson	Grant	Kirkpatrick	Sullivan
Brown-Waite	Gutman	Kurth	Thomas
Burt	Harden	Latvala	Turner
Casas	Hargrett	McKay	Weinstein
Crist	Harris	Meadows	Wexler
Dantzler	Horne	Myers	Williams
Dudley	Jennings	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Childers, Jenne

**CS for HB 1087****HB 1389**

Yeas—35

Bankhead	Dudley	Johnson	Rossin
Beard	Dyer	Jones	Silver
Bronson	Forman	Kirkpatrick	Sullivan
Brown-Waite	Grant	Kurth	Thomas
Burt	Gutman	Latvala	Turner
Casas	Harden	McKay	Weinstein
Childers	Hargrett	Meadows	Wexler
Crist	Horne	Myers	Williams
Dantzler	Jennings	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Jenne

Yeas—37

Bankhead	Dyer	Johnson	Silver
Beard	Forman	Jones	Sullivan
Bronson	Grant	Kirkpatrick	Thomas
Brown-Waite	Gutman	Kurth	Turner
Burt	Harden	Latvala	Weinstein
Casas	Hargrett	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Horne	Myers	
Dantzler	Jenne	Ostalkiewicz	
Diaz-Balart	Jennings	Rossin	

Nays—None

**CS for HB 1197****HB 1793**

Yeas—37

Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Hargrett	Meadows	Williams
Crist	Harris	Myers	
Dantzler	Horne	Ostalkiewicz	
Diaz-Balart	Jennings	Rossin	

Nays—None

Vote after roll call:

Yea—Jenne

Yeas—37

Bankhead	Dudley	Johnson	Silver
Beard	Dyer	Jones	Sullivan
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Hargrett	Meadows	Williams
Dantzler	Harris	Myers	
Diaz-Balart	Horne	Ostalkiewicz	
	Jennings	Rossin	

Nays—None

Vote after roll call:

Yea—Jenne

**HB 1833****HB 1271**

Yeas—35

Mr. President	Brown-Waite	Dantzler	Grant
Bankhead	Burt	Dudley	Gutman
Beard	Childers	Dyer	Harden
Bronson	Crist	Forman	Hargrett

Yeas—29

Bankhead	Crist	Hargrett	Latvala
Beard	Dantzler	Horne	McKay
Bronson	Dudley	Johnson	Meadows
Brown-Waite	Forman	Jones	Ostalkiewicz
Burt	Gutman	Kirkpatrick	Rossin
Casas	Harden	Kurth	Silver

Sullivan          Turner          Wexler

Thomas

Nays—None

Vote after roll call:

Yea—Childers, Dyer, Grant, Jenne

**CS for HB 1861**

Yeas—32

Bankhead	Dantzler	Johnson
Beard	Dyer	Jones
Bronson	Forman	Kirkpatrick
Brown-Waite	Grant	Kurth
Burt	Gutman	Latvala
Casas	Harden	McKay
Childers	Hargrett	Meadows
Crist	Horne	Myers

Nays—None

Vote after roll call:

Yea—Jenne

**CS for HB 1921**

Yeas—37

Bankhead	Dudley	Johnson
Beard	Dyer	Jones
Bronson	Forman	Kirkpatrick
Brown-Waite	Grant	Kurth
Burt	Gutman	Latvala
Casas	Harden	McKay
Childers	Hargrett	Meadows
Crist	Harris	Myers
Dantzler	Horne	Ostalkiewicz
Diaz-Balart	Jennings	Rossin

Nays—None

Vote after roll call:

Yea—Jenne

**CS for HB 1957**

Yeas—36

Bankhead	Diaz-Balart	Horne	Ostalkiewicz
Beard	Dudley	Jennings	Rossin
Bronson	Dyer	Jones	Silver
Brown-Waite	Forman	Kirkpatrick	Sullivan
Burt	Grant	Kurth	Thomas
Casas	Gutman	Latvala	Turner
Childers	Harden	McKay	Weinstein
Crist	Hargrett	Meadows	Wexler
Dantzler	Harris	Myers	Williams

Nays—None

Vote after roll call:

Yea—Jenne, Johnson

**CS for HB's 2159 and 2233**

Yeas—33

Bankhead	Casas	Dyer	Hargrett
Beard	Childers	Forman	Harris
Bronson	Crist	Grant	Horne
Brown-Waite	Dantzler	Gutman	Johnson
Burt	Dudley	Harden	Kirkpatrick

Williams

Kurth

Latvala

McKay

Meadows

Nays—None

Vote after roll call:

Yea—Jenne, Jones

Myers

Ostalkiewicz

Rossin

Silver

Sullivan

Thomas

Weinstein

Wexler

Williams

**CS for HB 2215**

Yeas—35

Mr. President	Dantzler	Horne	Rossin
Bankhead	Diaz-Balart	Jennings	Silver
Beard	Dudley	Johnson	Sullivan
Bronson	Dyer	Jones	Thomas
Brown-Waite	Forman	Kirkpatrick	Turner
Burt	Grant	Kurth	Weinstein
Casas	Gutman	Latvala	Wexler
Childers	Harden	Meadows	Williams
Crist	Harris	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Jenne

**CS for HB 2241**

Yeas—34

Bankhead	Dudley	Johnson	Rossin
Beard	Dyer	Jones	Silver
Bronson	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Hargrett	Meadows	Williams
Crist	Harris	Myers	
Dantzler	Horne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Jenne

**HB 2569**

Yeas—35

Bankhead	Dyer	Johnson	Rossin
Beard	Forman	Jones	Silver
Bronson	Grant	Kirkpatrick	Sullivan
Brown-Waite	Gutman	Kurth	Thomas
Burt	Harden	Latvala	Turner
Casas	Hargrett	McKay	Weinstein
Childers	Harris	Meadows	Wexler
Crist	Horne	Myers	Williams
Dantzler	Jennings	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Jenne

## HB 2695

Yeas—36

Mr. President	Dantzler	Harris
Bankhead	Diaz-Balart	Horne
Beard	Dudley	Jennings
Bronson	Dyer	Johnson
Brown-Waite	Forman	Jones
Burt	Grant	Kirkpatrick
Casas	Gutman	Kurth
Childers	Harden	Latvala
Crist	Hargrett	McKay

Nays—None

Vote after roll call:

Yea—Jenne, Meadows

## ENROLLING REPORTS

SB 26, SB 36, CS for SB 360, CS for SB 426, CS for SB 454, CS for SB 474, SB 742, SB 828, SB 1156, SB 1230, CS for SB 1272 and CS for SB 1718 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on May 1, 1996.

*Joe Brown, Secretary*

## CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 30 was corrected and approved.

## RECESS

On motion by Senator Jennings, the Senate recessed at 6:40 p.m. to reconvene at 9:30 a.m., Thursday, May 2.